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Monday
January 26, 1987

Briefings on How To Use the Federal Register—
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THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2 1/2 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: January 29; at 9 am.
WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.
RESERVATIONS: Mildred Isler 202-523-3517

PORTLAND, OR

WHEN: February 17; at 9 am.
WHERE: Bonneville Power Administration Auditorium, 1002 N.E. Holladay Street, Portland, OR.
RESERVATIONS: Call the Portland Federal Information Center on the following local numbers:

Portland **503-221-2222**
Seattle **206-442-0570**
Tacoma **206-383-5230**

LOS ANGELES, CA

WHEN: February 18; at 1:30 pm.
WHERE: Room 8544, Federal Building, 300 N. Los Angeles Street, Los Angeles, CA.
RESERVATIONS: Call the Los Angeles Federal Information Center, 213-894-3800

SAN DIEGO, CA

WHEN: February 20; at 9 am.
WHERE: Room 2S31, Federal Building, 880 Front Street, San Diego, CA.
RESERVATIONS: Call the San Diego Federal Information Center, 619-293-6030

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Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

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Presidential Documents

Title 3—

The President

Proclamation 5601 of January 21, 1987

Imposition of Increased Tariffs on Imports of Certain Articles

By the President of the United States of America

A Proclamation

1. On March 31, 1986, I announced my decision, pursuant to section 301(a) of the Trade Act of 1974, as amended (the Act) (19 U.S.C. 2411(a)), to take action in response to restrictions imposed by the European Economic Community (EEC) affecting imports of United States grain and oilseeds into Spain and Portugal. I determined that these restrictions deny benefits to the United States arising under the General Agreement on Tariffs and Trade (GATT) (61 Stat. (pts. 5 and 6)), are unreasonable, and constitute a burden and restriction on United States commerce (51 F.R. 18294). Accordingly, in Proclamation 5478 of May 15, 1986 (51 F.R. 18296), pursuant to section 301(a), (b), and (d)(1) of the Act (19 U.S.C. 2411 (a), (b), and (d)(1)), I imposed quantitative restrictions on imports of certain articles from the EEC in response to the EEC restrictions in Portugal.

2. In Proclamation 5478, I also announced my decision, in response to the withdrawal of tariff concessions and the application of the EEC variable levy on Spanish imports of corn and sorghum, to suspend temporarily, pursuant to section 301 (a), (b), and (d)(1) of the Act, the tariff concessions made by the United States under the GATT on articles described in Annex II to that proclamation. I made no immediate change in the U.S. duty rates for these articles in order to afford the EEC an opportunity to provide, by July 1, 1986, adequate compensation for the imposition of variable levies on imports of corn and sorghum into Spain. I further stated that, in the event such compensation were not provided by July 1, 1986, I would proclaim increased duties for these articles as appropriate. Having due regard for the international obligations of the United States, I decided that any such increased duties on these articles would be applied on a most-favored-nation basis.

3. On July 2, 1986, the United States and the EEC reached an interim agreement whereby the EEC agreed to take measures to avoid harm to U.S. sales of corn and sorghum to the EEC for the 6-month period ending December 31, 1986. In return, the United States agreed to defer action on the imposition of increased duties on imports of certain articles into the United States during this period so as to allow time for negotiation of a definitive settlement.

4. Despite extensive negotiating efforts throughout 1986, the EEC has not yet agreed to provide satisfactory compensation. Accordingly, I have determined, pursuant to section 301 (a), (b), and (d)(1) of the Act, that increased duties should be imposed on a most-favored-nation basis on the articles provided for in the Annex to this proclamation. Pursuant to general headnote 4 to the Tariff Schedules of the United States (19 U.S.C. 1202), the U.S. rates of duty for countries not receiving most-favored-nation treatment will be modified accordingly.

5. In the event that the EEC provides adequate compensation for the imposition of variable levies on corn and sorghum imports, or if other circumstances so warrant, I am authorizing the United States Trade Representative to suspend, modify, or terminate the increased duties imposed by this proclamation upon publication in the **Federal Register** of notice of his determination

that such action is in the interest of the United States. Such suspension, modification, or termination shall be on a most-favored-nation basis.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes of the United States, including but not limited to section 301 (a), (b), and (d)(1) and section 604 of the Act (19 U.S.C. 2483), do proclaim that:

1. Subpart B of part 2 of the Appendix to the Tariff Schedules of the United States is modified as provided in the Annex to this proclamation.

2. The United States Trade Representative is authorized to suspend, modify, or terminate the increased duties imposed by this proclamation upon publication in the **Federal Register** of his determination that such action is in the interest of the United States.

3. This proclamation shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after January 30, 1987.

IN WITNESS WHEREOF, I have hereunto set my hand this 21st day of January, in the year of our Lord nineteen hundred and eighty-seven, and of the Independence of the United States of America the two hundred and eleventh.

Ronald Reagan

ANNEX

Subpart B of part 2 of the Appendix to the Tariff Schedules of the United States is modified by inserting in numerical sequence the following new items and rates of duty:

Item	Articles	Rates of Duty	
		1	2
"946.15	Pork hams and shoulders, boned and cooked, packed in airtight containers holding less than 3 pounds (provided for in item 107.35, part 2B, schedule 1).	200% ad val	200% ad val.
	Blue-mold cheese:		
946.16	In original loaves (provided for in item 117.00, part 4C, schedule 1).	200% ad val	200% ad val.
946.17	Other (provided for in item 117.05, part 4C, schedule 1)	200% ad val	200% ad val.
946.18	Edam and Gouda cheeses (provided for in item 117.25, part 4C, schedule 1).	200% ad val	200% ad val.
946.19	Other cheeses, and substitutes for cheeses, valued over 25 cents per pound, other than cheeses provided for in items 950.07, 950.08A, 950.08B, 950.09B, 950.10C, 950.10D, and 950.10E in part 3 of the Appendix to the Tariff Schedules (provided for in item 117.88, part 4C, schedule 1).	200% ad val	200% ad val.
946.20	Endive, including Witloof chicory, fresh, chilled, or frozen, not reduced in size nor otherwise prepared or preserved (provided for in item 136.10, part 8A, schedule 1).	200% ad val	200% ad val.
946.21	Carrots (whether or not reduced in size), prepared or preserved, but not packed in salt, not in brine, nor pickled, in airtight containers (provided for in item 141.82, part 8C, schedule 1).	200% ad val	200% ad val.
946.22	Olives, prepared or preserved, in brine, not ripe and not pitted or stuffed, not green in color and not packed in airtight containers of glass, metal, or glass and metal (provided for in item 148.42, part 9B, schedule 1).	200% ad val	200% ad val.
946.23	White still wines produced from grapes, containing not over 14% of alcohol by volume, in containers each holding not over 1 gallon, valued not over $4 per gallon (provided for in item 167.30, part 12C, schedule 1).	200% ad val	200% ad val.
946.24	Brandy (other than pisco, singani, and slivovitz), in containers each holding not over 1 gallon, valued over $13 per gallon (provided for in item 168.78, part 12D, schedule 1).	200% ad val	200% ad val.
946.25	Gin, in containers each holding not over 1 gallon (provided for in item 169.07, part 12D, schedule 1).	200% ad val	200% ad val."

[FR Doc. 87-1729

Filed 1-22-87; 12:01 pm]

Billing code 3195-01-M

Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 890

Federal Employees Health Benefits Program

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is confirming as final and republishing without change its regulations under the Federal Employees Health Benefits (FEHB) Program that reflect two statutory changes brought about by the Federal Employees Benefits Improvement Act of 1986. These regulations specify the conditions requiring OPM to hold an open session and restore payment to all qualified providers in Medically Underserved Areas effective January 1, 1985.

EFFECTIVE DATE: These regulations became effective August 12, 1986.

FOR FURTHER INFORMATION CONTACT: Barbara Myers, (202) 632–4634.

SUPPLEMENTARY INFORMATION: On August 12, 1986, OPM published interim regulations in the **Federal Register** (51 FR 28799) to implement two requirements of the Federal Employees Benefits Improvement Act of 1986 (Pub. L. 99–251). The law requires (1) OPM to conduct an open session of at least 3 week's duration if the rates or benefits of any of the health plans change, if a newly-approved health plan is offered, or if an existing health plan ceases to participate in the FEHB Program at the end of a contract year; and (2) restoration of payment to all qualified providers in states designated as Medically Underserved Areas under the FEHB Program effective January 1, 1985. OPM received two written comments on the interim regulations: One from an FEHB underwriter and one from a professional association. Both were generally in favor of the regulatory changes.

One commenter suggested that OPM wait until after the beginning of a calender year to determine which states qualify as Medically Underserved Areas under the FEHB Program for that year. OPM believes that it has an obligation to FEHB enrollees to determine which states qualify as Medically Underserved Areas in time for this information to be published in the FEHB open season plan brochures. (These brochures, which are distributed to FEHB enrollees and to Federal agencies and retirement systems in November of each year, contain information on the plan's benefits for the contract year beginning the following January.) By fulfilling this obligation, OPM is ensuring that individuals have sufficient notice of their state's status as a Medically Underserved Area so that during the open season these individuals can select the plan that will best meet their medical needs during the next year. When making its determination, OPM uses the most current data available.

The same commenter noted a reduction in the number of states designated as Medically Underserved Areas under the FEHB Program between 1984 and 1985, and asked if we had changed our methodology. While the number of states designated as Medically Underserved Areas has changed, there has been no change in OPM's methodology. In determining which states qualify as Medically Underserved Areas, OPM compares the latest Department of Health and Human Services state-by-state population counts on primary medical care manpower shortage areas with U.S. Census figures on state resident population. This is a purely mechanical calculation and could not be changed under current law. The decrease in the number of states designated as Medically Underserved Areas under the FEHB Program reflects a change in the data provided to OPM.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they primarily affect Federal employees, annuitants, and former spouses.

List of Subjects in 5 CFR Part 890

Administrative practice and procedures, Government employees, Health insurance.

U.S. Office of Personnel Management.
James E. Colvard,
Deputy Director.

Accordingly, the interim regulations that were published at 51 FR 28799 on August 12, 1986, are adopted as final rules without change and are being republished for the reader's convenience.

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

1. The authority citation for Part 890 continues to read as follows:

Authority: 5 U.S.C. 8913; Sec. 890.102 also issued under 5 U.S.C. 1104 and Sec. 3(5) of Pub. L. 95–454, 92 Stat. 1112; Sec. 890.301 also issued under 5 U.S.C. 8905(b); Sec. 890.302 also issued under 5 U.S.C. 8901(5) and 5 U.S.C. 8901(9); Sec. 890.701 also issued under 5 U.S.C. 8902(m)(2); Subpart H also issued under Title I of Pub. L. 98–615, 98 Stat. 3195, and Title II of Pub. L. 99–251.

2. In § 890.301, paragraph (d) is republished to read as follows:

§ 890.301 Opportunities to register to enroll and change enrollment.

* * * * *

(d) *Open season.* (1) An open season will be held from the Monday of the second full workweek in November through the Friday of the first full workweek in December in any year—

(i) That precedes a year during which the rates or benefits of any health benefits plan in the Program will change; or

(ii) That precedes a year during which a newly-approved plan will begin participation in the Program; or

(iii) At the end of which an existing health benefits plan will cease to participate in the Program.

(2) The Director of the Office of Personnel Management may modify the dates specified in this paragraph or announce additional open seasons.

Announcements of open seasons will be made by OPM in Federal Personnel Manual (FPM) Bulletins.

(3) During open season—

(i) An eligible unenrolled employee may register to be enrolled.

(ii) An enrolled employee, annuitant, or former spouse may change to another plan, another option, or from self alone to self and family, or may make any combination of these changes.

* * * * *

3. In § 890.701, the second sentence of the paragraph defining "Medically underserved area" was removed and the three sentences which were added to the end of the definition are republished to read as follows:

§ 890.701 Definitions

* * * * *

"Medically underserved area" * * *

OPM has determined that effective January 1, 1985, the following states are "medically underserved areas" for purposes of this subpart: Alabama, Georgia, Louisiana, Mississippi, and West Virginia. Claims for services provided in 1985 must be submitted by December 31, 1987, notwithstanding time limits governing submission of other claims in the plan brochures.

OPM has determined that effective January 1, 1986, the following states are "medically underserved areas" for purposes of this subpart: Alabama, Louisiana, Mississippi, West Virginia, and Wyoming.

4. In § 890.702, paragraph (b) is republished to read as follows:

§ 890.702 Payment to any licensed practitioner.

* * * * *

(b) Paragraph (a) of this section applies only to health services provided under contracts which became effective after December 31, 1979.

[FR Doc. 87-1590 Filed 1-23-87; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegations of Authority

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This document amends the delegations of authority from the Secretary of Agriculture and General Officers of the Department to delegate authority to enter into contracts, grants, cooperative agreements, and cost-reimbursable agreements relating to the conduct of agricultural research.

EFFECTIVE DATE: January 26, 1987.

FOR FURTHER INFORMATION CONTACT: Robert L. Siegler, Deputy Assistant General Counsel, U.S. Department of Agriculture, Washington, DC (202) 447-6035.

SUPPLEMENTARY INFORMATION: The delegations of authority of the Department of Agriculture are amended to delegate to the Assistant Secretary for Economics and the Administrators of the National Agricultural Statistics Service and the Economic Research Service the authority to enter into contracts, grants, cooperative agreements, and cost-reimbursable agreements, under sections 1472 and 1473A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended by Pub. L. No. 99-198, and to authorize the Director, Economics Management Staff, to take actions relating to grants and cooperative agreements.

This rule relates to internal agency management. Therefore, pursuant to 45 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required and this rule may be made effective less than 30 days after publication in the **Federal Register.**

Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Finally, this action is not a rule as defined by the Regulatory Flexibility Act and, thus, is exempt from the provisions of the Act.

List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies).

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Accordingly, Part 2, Subtitle A, Title 7, Code of Federal Regulations is amended as follows:

1. The authority for Part 2 continues to read as follows:

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953, unless otherwise noted.

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, the Under Secretary for Small Community and Rural Development, and Assistant Secretaries.

2. Section 2.27 is amended by adding new paragraphs (a)(16) and (a)(17) to read as follows:

§ 2.27 Delegations of authority to the Assistant Secretary for Economics.

* * * * *

(a) * * *

(16) Enter into contracts, grants, or cooperative agreements to further research and statistical reporting programs in the food and agricultural sciences (7 U.S.C. 3318).

(17) Enter into cost-reimbursable agreements relating to agricultural research and statistical reporting (7 U.S.C. 3319a).

* * * * *

Subpart K—Delegations of Authority by the Assistant Secretary for Economics

3. Section 2.84 is amended by adding new paragraphs (a)(10) and (a)(11) to read as follows:

§ 2.84 Administrator, Economic Research Service.

(a) * * *

(10) Enter into contracts, grants, or cooperative agreements to further research programs in the food and agricultural sciences (7 U.S.C. 3318).

(11) Enter into cost-reimbursable agreements relating to agricultural research (7 U.S.C. 3319a).

* * * * *

4. Section 2.85 is amended by adding new paragraphs (a)(5) and (a)(6) to read as follows:

§ 2.85 Administrator, National Agricultural Statistics Service.

(a) * * *

(5) Enter into contracts, grants, or cooperative agreements to further research and statistical reporting programs in the food and agricultural sciences (7 U.S.C. 3318).

(6) Enter cost-reimbursable agreements relating to agricultural research and statistical reporting (7 U.S.C. 3319a).

* * * * *

5. Section 2.87 is amended by revising paragraph (a)(1)(i) to read as follows:

§ 2.87 Director, Economics Management Staff.

(a) * * *

(1) * * *

(i) Administrative Services with authority to take actions required by law or regulation relating to grants, cooperative agreements, cost-reimbursable agreements, procurement and contracting, real and personal property management, paperwork management, management analysis, matters arising under the Freedom of

Information Act and the Privacy Act, and related functions.

* * * * *

For Subpart C:

Richard E. Lyng,

Secretary of Agriculture.

Dated: January 14, 1987.

For Subpart K:

Ewen M. Wilson,

Deputy Assistant Secretary for Economics

Dated: January 14, 1987.

[FR Doc. 87-1620 Filed 1-23-87; 8:45 am]

BILLING CODE 3410-01-M

National Agricultural Statistics Service

7 CFR Parts 3600 and 3601

Organization, Functions, and Availability of Information to the Public

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Final rule.

SUMMARY: This rule explains the organization and functions of the National Agricultural Statistics Service (NASS) and the procedures for requesting records from NASS under the Freedom of Information Act (FOIA). It supplements the Department's regulations published at 7 CFR Part 1, Subpart A.

EFFECTIVE DATE: January 26, 1987.

FOR FURTHER INFORMATION CONTACT: Laura B. Snow, Economics Agencies FOIA Officer, Economics Management Staff, USDA, Room 4310, South Building, 12th and Independence Avenue, SW., Washington, DC 20250. Telephone (202) 447-7590.

SUPPLEMENTARY INFORMATION: This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required and this rule may be made effective in less than 30 days after publication in the **Federal Register** Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Also, this action is not a rule as defined by Pub. L. 96-354, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects

7 CFR Part 3600

Organization and functions (Government agencies).

7 CFR Part 3601

Freedom of information.

Accordingly, 7 CFR is amended by adding a new Chapter XXXVI and Parts 3600 and 3601 reading as follows:

CHAPTER XXXVI—NATIONAL AGRICULTURAL STATISTICS SERVICE

PART 3600—ORGANIZATION AND FUNCTIONS

Sec.

Authority: U.S.C. 301 and 552, and 7 CFR 2.85, except as otherwise stated.

§ 3600.1 General.

The National Agricultural Statistics Service (NASS) was established on April 17, 1986, by Secretary's Memorandum 1020-24, which renamed the Statistical Reporting Service concurrent with an internal restructuring. The primary responsibilities of NASS are the development and dissemination of national and State agricultural statistics, statistical research, and coordination of the Department's statistical programs.

§ 3600.2 Organization.

The headquarters organization consists of (1) the Administrator; (2) Deputy Administrator for Programs with supporting staff; (3) Deputy Administrator for Operations with supporting staff; (4) four Divisions; Estimates Division, Data Management Division, Research and Applications Division, and State Statistical Division; and (5) Agricultural Statistics Board. In the field, each of the 44 State Statistical Offices, serving the 50 States, is under a Statistician in Charge.

§ 3600.3 Functions.

(a) *Administrator.* The Administrator is responsible for the formulation of current, intermediate, and long-range policies and plans to carry out a broad statistical program for the agricultural sector and for Departmental functions and activities assigned to NASS. Specific functions are:

(1) Administering an agricultural statistics program which includes estimates of production, marketings, inventories, and selected economic characteristics of the U.S. agricultural and rural economy.

(2) Administering a methodological research program to develop and improve agricultural data collection and processing, data management, and statistical research related to estimation and forecasting.

(3) Administering programs to conduct surveys for other agencies, improve statistics through establishment of statistical standards for the Department, and coordinate statistical methods and techniques within the Federal Government.

(4) Administering statistical programs jointly developed through State cooperative agreements and with private groups and other agencies, and coordinating policy and program execution as carried out by NASS.

(5) Administering selected international agricultural statistics programs for exchange of information and providing foreign technical assistance and training on statistical methodology for developing countries.

(b) *Deputy Administrator for Programs.* The Deputy Administrator for Programs is responsible for all program-related activities involving estimates, forecasts, statistical quality standards, and data management for NASS. Specific functions are:

(1) Administering estimation, forecasting, and data management aspects of the agricultural statistics programs to provide official national and State estimates, forecasts, and statistical reports relating to agriculture.

(2) Formulating and implementing current and long-range policies, programs, and plans to meet statistical needs of the agricultural and rural sector.

(3) Formulating the agricultural statistics programs including statistical standards, input and output specifications, analysis of basic statistical data, preparation of estimates, release dates, etc.

(4) Chairing the Agricultural Statistics Board activities which include: designating membership on the Board; calling for and presiding at Board sessions; and formulating techniques and procedures to be followed by the Board in analyzing statistical data and adoption of official estimates.

(5) Advising and counseling the Administrator and sharing in the responsibility for advising and counseling high-level policy officials on statistical and data management programs of NASS in connection with new or modified basic agricultural policies and programs.

(6) Administering the information resources management operations of NASS involving data processing, transmission, storage and retrieval systems, as well as systems analysis design, programming, testing, and installation of approved systems, including the preparation and

dissemination of reports of the Agricultural Statistics Board.

(7) Providing leadership and coordination in the review and evaluation of all NASS programs with respect to statistical standards.

(c) *Deputy Administrator for Operations.* The Deputy Administrator for Operations has primary responsibility for all statistical survey, research, and cooperative State and other related activities for NASS. Specific functions are:

(1) Formulating and implementing policies, programs, and plans for the research, operational survey functions, and cooperative programs for NASS.

(2) Advising and counseling the Administrator and sharing fully in the responsibility for advising and counseling high-level policy officials on matters related to operational and research programs of NASS associated with new or modified basic agricultural policies and programs.

(3) Developing and maintaining cooperative programs with State governments and other cooperators for the joint conduct of local agricultural statistics programs.

(4) Administering the statistical research and development program, including research pertaining to: (1) Sampling methodologies and survery techniques used in gathering and evaluating statistical data; (2) application of mathematical and statistical theory to estimation programs and studies to improve their efficiency and reliability; and (3) techniques of statistical measurement.

(5) Administering survey design and collection activities through planning, implementing, and evaluating methodologies used for the agricultural statistics program.

(6) Developing and maintaining foreign technical assistance and training programs for developing countries for survey methodology and agricultural statistics systems in cooperation with other Federal agencies.

(7) Administering survey activities performed on a reimbursable basis for other agencies or private groups.

(8) Serving as the primary liaison with the Economics Management Staff for all administrative and program support activities.

(d) *Director, Estimates Division.* The Director, Estimates Division, under the direction of the Administrator and the Deputy Administrator for Programs, is responsible for NASS estimating and forecasting programs. Specific functions include:

(1) Defining input and output requirements for the agricultural statistics program of reports in terms of: (1) Estimators and variances to be utilized; (2) statistical standards; (3) editing and summarization requirements; (4) analytic procedures; and (5) specific estimates or forecasts.

(2) Collaborating with the Chairperson of the Agricultural Statistics Board on establishing the annual program of reports for crops, livestock, dairy, poultry, and economic statistics.

(3) Preparing specific series of estimates and forecasts required by the agricultural statistics program.

(4) Developing appropriate systems parameters, processing, summarizing, and presenting current survey and related historical data for Agricultural Statistics Board analysis and preparation of official estimates and forecasts.

(5) Collaborating with the Research and Applications Divison on the conduct of research and development of sampling frames, statistical analysis procedures, data collection, and quality control procedures.

(6) Collaborating with the Data Management Division on determining system specifications required by the agricultural statistics programs for data analysis and report preparation.

(7) Reviewing specifications for special data collection activities for programs of other Federal or State agencies.

(8) Maintaining contact with industry, university, and private research organizations to keep abreast of development in the production and marketing of commodities included in NASS programs.

(e) *Director, Data Management Division.* The Director, Data Management Division, under the direction of the Administrator and the Deputy Administrator for Programs, is responsible for NASS information management system and processing services. Specific functions are:

(1) Designing, maintaining, and providing appropriate access to an integrated and standardized information management system containing sampling frames, survey data, estimates, and administrative records utilized by NASS.

(2) Designing, testing, implementing, and maintaining application systems within the information management system.

(3) Providing appropriate support for assisting users of the information management system through documentation, evaluation, training, and resolution of information management problems.

(4) Designing and issuing all reports releasing official State and national estimates and forecasts from NASS.

(5) Coordinating data communication and processing activities in support of the agricultural statistics program.

(6) Providing centralized facilities for selected data processing operations.

(7) Collaborating with the Research and Applications Division on planning and conducting research projects involving new computer hardware, software, processing advancements, and other data management considerations.

(8) Participating with the Deputy Administrators in planning and carrying out special studies and programs to appraise and strengthen data management standards of NASS.

(9) Conducting studies and developing improved data base management and application systems and methods.

(f) *Director, Research and Applications Division.* The Director, Research and Applications Division, under direction of the Adminstrator and the Deputy Administrator for Operations, administers and is responsible for: research and development of statistical methodology for survey design, data collection, processing, estimating, and forecasting; and application of survey design and data collection methodologies to the agricultural statistics program. Major functions are:

(1) Conducting statistical research and investigation, either internally, through cooperative agreements, or contracts to: (i) Develop new and improved sampling techniques; (ii) develop improved data collection methods; (iii) identify methods of controlling sampling and nonsampling errors; (iv) research statistical computing methods and the development of efficient uses of computer technology including telecommunications, networking, and other relating topics; (v) research models for estimating and commodity production forecasting; and (vi) research applications of remote sensing technology, etc.

(2) Developing new statistical theory and models and solving problems in theoretical statistics, including numerical methods involving advanced mathematical statistics.

(3) Constructing and maintaining appropriate sampling frames for agricultural and rural surveys.

(4) Designing, testing, and establishing survey techniques and standards, including sample design, sample selection, questionnaries, data collection methods, survey materials, and training methods for NASS.

(5) Participating with the Deputy Administrators in planning and carrying out special studies and programs to appraise and strengthen statistical

standards and programs of NASS and the Department.

(6) Maintaining liaison with: other Governemnt agencies regarding the collection of agricultural statistical data requiring coordination with NASS; Land-Grant colleges and universities; statistical research centers; and other organizations having an interest in statistics and statistical methods.

(7) Providing services to design, train, and conduct statistical surveys, which are not included within the scope of the current agricultural statistics programs.

(8) Providing direction and coordination of NASS and USDA remote-sensing research activities designed to meet information requirements.

(g) *Director, State Statistical Division.* The Director, State Statistical Division, under the direction of the Administrator and the Deputy Administrator for Operations, administers, directs, and coordinates the statistical data collection and estimating program carried out by State Statistical Offices (identified in Appendix A to this Part.) This includes the development and maintenance of statistical programs with cooperating State and private groups and other Federal agencies. Specific functions include:

(1) Participating with the Deputy Administrators in formulating policy and programs as they affect or relate to functions and responsibilities of the State Statistical Offices.

(2) Directing designated State agricultural statistics programs and programs established through cooperative agreements with State Departments of Agriculture, Land-Grant colleges and universities, or other appropriate private organizations. Integrating and harmonizing the requirements of the private, State, and Federal programs as to funds, staff-hours, and timing of reports.

(3) Preparing specific series of State estimates and forecasts required by the agricultural statistics programs.

(4) Establishing and maintaining constructive and harmonious relationships with respondents, producers, commodity groups, data users, and other interested groups to gain their cooperation in providing useful and reliable information.

(5) Collaborating with the Estimates Division on establishing the annual program of agricultural statistics reports.

(6) Collaborating with the Research and Applications Division on carrying out research and the development of sampling frames.

(h) *Chairperson, Agricultural Statistics Board.* The Chairperson, Agricultural Statistics Board, reviews, prepares, and issues on specific dates, following approval by the Secretary of Agriculture as provided by law (7 U.S.C. 411a) and Departmental Regulation, the official State and national estimates and Department reports relating to crop production, livestock and livestock products, dairy and dairy products, poultry and poultry products, stocks of agricultural commodities, value of farm products, farm inputs, and other assigned aspects relating to the agricultural sector.

§ 3600.4 Authority to Act for the Administrator.

In the absence of the Administrator, the following officials are designated to serve as Acting Administrator in the order indicated:

Deputy Administrator for Operations
Deputy Administrator for Programs
Director, State Statistical Division
Director, Estimates Division
Director, Research and Applications Division
Director, Data Management Division

Appendix A—List of State Statistical Offices

Section 1. General

Information concerning NASS statistics programs and activities related to individual States may be obtained from the Statistician in Charge, State Statistical Office, NASS, in the locations listed below.

Section 2. List of Addresses

ALABAMA, 831 Aronov Building, 474 South Court Street, Montgomery, AL 36104
ALASKA, 268 East Fireweed Street, Suite 3, Palmer, AK 99645
ARIZONA, 201 East Indianola, Suite 250, Phoenix, AZ 85012
ARKANSAS, 3402 Federal Office Building, Little Rock, 72201
CALIFORNIA, 1220 N Street, Rm. 243, Sacramento, CA 95814
COLORADO, 2490 West 26th Avenue, Rm. 245, Denver, CO 80211
FLORIDA, 1222 Woodward Street, Orlando, FL 32803
GEORGIA, Stephens Federal Building, Suite 320, Athens, GA 30613
HAWAII, State Dept. Agriculture Bldg., 1428 So. King St., Honolulu, HI 96814
IDAHO, 2224 Old Penitentiary Road, Boise, ID 83712
ILLINOIS, Illinois Dept. of Agriculture Bldg., Rm. 54, 801 Sangamon Ave., Springfield, IL 62706
INDIANA, Agricultural Admin. Bldg., Purdue Univ., West Lafayette, IN 47907
IOWA, Federal Building, Rm. 833, 210 Walnut Street, Des Moines, IA 50309
KANSAS, 444 S.E. Quincy, Rm. 290, Topeka, KS 66683
KENTUCKY, 645 Old Post Office and Court House Bldg., Louisville, KY 40201
LOUISIANA, U.S. Dept. of Agri. Bldg., 3727 Govt. St., Alexandria, LA 71302
MARYLAND, 50 Harry S Truman Parkway, Annapolis, MD 21401 (includes Delaware)
MICHIGAN, 201 Federal Building, Lansing, MI 48904
MINNESOTA, 90 W. Plato Boulevard, St. Paul, MN 55107
MISSISSIPPI, 1625 Handy Avenue, Jackson, MS 39204
MISSOURI, 555 VanDiver Drive, Columbia, MO 65202
MONTANA, Federal Bldg. & U.S. Court House, Rm. 398 Helena, MT 59626
NEBRASKA, 273, 100 Centennial Mall North, Lincoln, NE 68508
NEVADA, Max C. Fleischmann Agricultural Bldg., Rm. 232, Reno, NV 89557
NEW ENGLAND, 6 Loudon Road, Rm. 203, Flanders Office Bldg., Concord, NH 03301
NEW JERSEY, Health & Agriculture Bldg., Rm. 204, CN-330 New Warren St., Trenton, NJ 08625
NEW MEXICO, Federal Bldg. & U.S. Court House, Griggs Ave. at Church St., Rm. C-203, Las Cruces, NM 88001
NEW YORK, Dept. of Agriculture & Markets, 1 Winners Circle, Albany, NY 12235
NORTH CAROLINA, 1 W. Edenton Street, Raleigh, NC 27611
NORTH DAKOTA, New Federal Building, Rm. 345, Fargo, ND 58102
OHIO, New Federal Building, Rm. 608, 200 N. High St., Columbus, OH 43215
OKLAHOMA, 2800 North Lincoln Blvd., Oklahoma City, OK 73105
OREGON, 1735 Federal Bldg., 1220 SW Third Ave., Portland, OR 97204
PENNSYLVANIA, 2301 North Cameron Street, Rm. G-19, Harrisburg, PA 17110
SOUTH CAROLINA, 1835 Assembly St., Room 1008, Columbia, SC 29201
SOUTH DAKOTA, 3528 So. Western Ave., Sioux Falls, SD 57117
TENNESSEE, Holman Office Bldg., Ellington Agricultural Center, Nashville, TN 37204
TEXAS, 555 Federal Building, 300 East 8th Street, Austin, TX 78701
UTAH, 350 N. Redwood Rd., Room 107, Salt Lake City, UT 84116
VIRGINIA, 1100 Bank Street, Rm. 106, Richmond, VA 23219
WASHINGTON, 417 West 4th Street, Olympia, WA 98501
WEST VIRGINIA, 4720 Brenda Lane, Charleston, WV 25312
WISCONSIN, 801 West Badger Road, Madison, WI 53713
WYOMING, Post Office & Court House Bldg., Rm. 7008, Cheyenne, WY 82001

PART 3601—AVAILABILITY OF INFORMATION TO THE PUBLIC

Sec.
3601.1 General.
3601.2 Public inspection, copying, and indexing.
3601.3 Requests for records.
3601.4 Denials.
3601.5 Appeals.
3601.6 Requests for published data and information.

Authority: 5 U.S.C. 301 and 552; 7 CFR 1.1–1.19 and Appendix A.

§ 3601.1 General.

This part is issued in accordance with the regulations of the Secretary of Agriculture in §§ 1.1 through 1.19 of this title and Appendix A thereto,

implementing the Freedom of Information Act (5 U.S.C. 552), and governs the availability of records of the National Agricultural Statistics Service (NASS) to the public.

§ 3601.2 Public inspection, copying, and indexing.

5 U.S.C. 552(a)(2) requires that certain materials be made available for public inspection and copying and that a current index of these materials be published quarterly or otherwise be made available. NASS does not maintain any materials within the scope of these requirements.

§ 3601.3 Requests for records.

Requests for records of NASS shall be made in accordance with § 1.6(a) and (b) of this title and addressed to: Economics Agencies FOIA Officer, Economics Management Staff, USDA, Room 4310, South Building, 12th and Independence Avenue, SW., Washington DC 20250. This official is delegated authority to make determinations regarding such requests in accordance with § 1.3(b) of this title.

§ 3601.4 Denials.

If the Economics Agencies FOIA Officer determines that a requested record is exempt from mandatory disclosure and that discretionary release would be improper, the Economics Agencies FOIA Officer shall give written notice of denial in accordance with § 1.7(a) of this title.

§ 3601.5 Appeals.

Any person whose request is denied shall have the right to appeal such denial. Appeals shall be made in accordance with § 1.6(e) of this title and addressed to the Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, Washington, DC 20250.

§ 3601.6 Requests for published data and information.

Information on published data and subscription rates is available from the Secretary, Agricultural Statistics Board, National Agricultural Statistics Service, U.S. Department of Agriculture, DC 20250. In the field, published data and subscription forms are available from the Statistician in Charge at each State Statistical Office. Addresses of State Statistical Offices are listed in Appendix A to Part 3600 of this title.

Done at Washington, DC, this 12th day of January, 1987.

W.E. Kibler,

Administrator, National Agricultural Statistics Service.

[FR Doc. 87-1623 Filed 1-23-87; 8:45 am]

BILLING CODE 3410-20-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts With Transportation Lines

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule adds Garuda Indonesia to the list of carriers which have entered into agreements with the Service to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries.

EFFECTIVE DATE: January 6, 1987.

FOR FURTHER INFORMATION CONTACT: Ellis B. Linder, Assistant Chief Inspector, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, Telephone: (202) 633-2745.

SUPPLEMENTARY INFORMATION: The Commissioner of Immigration and Naturalization entered into an agreement with Garuda Indonesia on January 6, 1987, to guarantee passage through the United States in immediate and continuous transit of aliens destined to foreign countries.

The agreement provides for the waiver of certain documentary requirements and facilitates the air travel of passengers on international flights while passing through the United States.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment merely makes an editorial change to the listing of transportation lines.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that the rule will not have a significant impact on a substantial number of small entities.

This order constitutes a notice to the public under 5 U.S.C. 552 and is not a rule within the definition of section 1(a) of E.O. 12291.

List of Subjects in 8 CFR Part 238

Airlines, Aliens, Government contracts, Travel, Travel restriction.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 238—CONTRACTS WITH TRANSPORTATION LINES

1. The authority citation for Part 238 continues to read as follows:

Authority: Secs. 103 and 238 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103 and 1228).

§ 238.3 [Amended]

In § 238.3 *Aliens in immediate and continuous transit,* the listing of transportation lines in paragraph (b) *Signatory lines* is amended by adding, in alphabetical sequence, "Garuda Indonesia."

* * * * *

Dated: January 15, 1987.

Richard E. Norton,

Associate Commissioner, Examinations Immigration and Naturalization Service.

[FR Doc. 87-1621 Filed 1-23-87; 8:45 am]

BILLING CODE 4410-10-M

FARM CREDIT ADMINISTRATION

12 CFR Part 624

Temporary Regulations

AGENCY: Farm Credit Administration.

ACTION: Final rule with request for comments.

SUMMARY: The Farm Credit Administration (FCA) publishes certain technical amendments to its final regulations published on December 24, 1986, (51 FR 46597) relating to the utilization of regulatory accounting principles (RAP) by Farm Credit System (System) institutions. These technical amendments clarify the circumstances under which System institutions are authorized to consider the unamoritized portion of debt-related costs that are deferred in accordance with the RAP regulations as capital for RAP purposes.

DATES: The final regulations were effective December 24, 1986. Written comments must be received on or before February 24, 1987.

ADDRESS: Submit comments on the final regulations in writing (in triplicate) to Frederick R. Medero, General Counsel, Farm Credit Administration, McLean, VA 22102-5090. Copies of all communications received will be available for examination by interested parties in the Office of General Counsel, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:
Robert E. Donnelly, Office of Analysis and Supervision, Farm Credit Administration, McLean VA 22102-5090, (703) 883-4450
or
Gary L. Norton, Office of General Counsel, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4020

SUPPLEMENTARY INFORMATION: At its regular monthly meeting on January 15, 1987, the FCA Board adopted technical amendments to FCA regulations implementing the Farm Credit Act Amendments of 1986 (1986 Amendments), Pub. L. 99-509, relating to the utilization of RAP by System institutions, and the reporting and disclosure requirements associated therewith. In addition, the FCA Board ordered that a public hearing be held, in two sessions, to afford supplemental public comment on the regulations. Details regarding the public hearing are published in a separate document in this issue of the **Federal Register.**

The regulations relating to the utilization of RAP were published on December 24, 1986 (51 FR 46597). The regulations authorize System institutions to use RAP to amortize a portion of their provisions for loan losses and a portion of their interest costs over a period not to exceed 20 years, provided the conditions set forth in the regulations are met.

The technical amendments to the regulations adopted by the FCA Board add a new paragraph (b) to § 624.111 to clarify that System institutions that use RAP to defer and amortize a portion of their debt costs may treat the unamortized portion of debt-related costs that are deferred in accordance with the regulations as capital, provided the institution has fully utilized loan losses amortization authorized under the regulations and the Farm Credit System Capital Corporation is unable to make sufficient financial assistance available to the instituition to cure any impairment of its stock. The amendments reflect the intention of the FCA Board, as expressed in the course of its December 18, 1986 deliberations on the regulations, that System institutions be authorized to use such amortized debt cost as capital for RAP purposes to the extent necessary to correct an impairment of the institutions capital stock for RAP purposes.

Under the regulations, all System institutions must continue to issue financial statements to their stockholders and investors that are prepared in accordance with generally accepted accounting principles (GAAP). Those institutions that use RAP must fully inform stockholders and investors of such use and its implications in footnotes to their financial statements. As part of its January 15, 1987 action on the regulations, the FCA Board also adopted amendments to §§ 624.103 and 624.113 that makes clear that the disclosure requirements in the regulation are applicable to circumstances under which an institution is using either or both forms of RAP to maintain the value of its stock at par for RAP purposes.

In amending the regulations, the FCA Board affirmed that the board of directors of each institution that uses RAP to defer loan losses or debt costs has the option to decide whether the institution will retire stock on the basis of GAAP or RAP. Institutions that retire stock are required under law to do so at a value which represents the lesser of either the par or book value of the stock. For purposes of retiring stock, an institution may elect under the regulations to determine book value in accordance with either GAAP, or under RAP where certain specified conditions are met. Thus an institution whose stock is impaired on a GAAP basis, but is not impaired on a RAP basis, may continue to retire stock at par value where the requirements of the regulations are met. The regulations contain provisions which will ensure that an institution which elects to retire stock at RAP value will make full disclosure of its decision to its stockholders.

The amendments are issued as technical amendments to the regulations published on December 24, 1986, and have the same effective date as those regulations. For the same reasons discussed in connection with the issuance of the regulations, the FCA Board determined, based on the Board's finding, for good cause and in accordance with 5 U.S.C. 553(b) and (d), that prior public comment and a delay in the effective date are impracticable, unnecessary, and contrary to the public interest. For the same reasons, the FCA Board determined, in accordance with 12 U.S.C. 2252(b), that an emergency exists which authorized publication of these technical amendments to the regulations without prior review by the appropriate congressional committees.

List of Subjects in 12 CFR Part 624

Accounting, Agriculture, Banks, Banking, Credit, Rural areas.

As stated in the preamble, Chapter VI, Title 12, Code of Federal Regulations is amended as follows:

PART 624—TEMPORARY REGULATIONS

1. The authority citation for Part 624 continues to read as follows:

Authority: 12 U.S.C. 2201, 2159, 2205, 2254, Pub. L. 99-509.

Subpart A—Deferral and Amortization of Premiums, Interest Expenses, and Provisions for Loan Losses

2. Section 624.104 is amended by revising the introductory paragraph to read as follows:

§ 624.104 Retirement of equities.

An institution that has stock or participation certificates that have a book value less than par or face amount as determined in accordance with GAAP and a book value equal to par or face amount as determined in accordance with RAP shall operate in accordance with paragraph (a) or (b) of this section:

* * * * *

Subpart B—Accounting and Disclosure

3. Section 624.111 is revised to read as follows:

§ 624.111 Deferral of interest costs.

(a) A bank that defers any expenses associated with actions taken in accordance with § 624.102 of this part shall amortize such expenses over a period not to exceed 20 years using straight-line amortization. Except as provided for in paragraph (b) of this section, the unamortized portion of debt-related costs that are deferred or are eligible to be deferred shall not be considered as capital of the institution.

(b) The unamortized portion of debt-related costs that are deferred or are eligible to be deferred may be considered as capital of the institution in such amounts as are necessary to maintain the value of the institution's stock and participation certificates at par or face amount as determined in accordance with RAP, where the institution has fully utilized the authorities provided for in § 624.103 of this part and has received official written notification that the Capital Corporation is unable to provide the institution with financial assistance.

4. Section 624.113 is amended by revising paragraphs (b) introductory text and (b)(1) to read as follows:

§ 624.113 Financial reporting and disclosure.

* * * * *

(b) Each Federal land bank, bank for cooperatives, and the Central Bank for Cooperatives, that is deferring its

provision for loan losses in accordance with § 624.103 of this part or is deferring interest expenses in accordance with §§ 624.102 and 624.111(b) and each production credit association that is deferring its provision for loan losses shall comply with the requirements of this paragraph.

(1) Not later than 30 days after the institution has deferred a portion of its provision for loan losses or interest expenses the institution shall provide each stockholder and holder of participation certificates with a clearly written notification of the following matters:

* * * * *

Kenneth J. Auberger,

Secretary, Farm Credit Administration Board.

[FR Doc. 87-1636 Filed 1-22-87; 8:45 am]

BILLING CODE 6705-01-M

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12 CFR Part 624

Temporary Regulations; Public Hearing

AGENCY: Farm Credit Administration.

ACTION: Hearings on final regulations.

SUMMARY: The Farm Credit Administration (FCA) announces a forthcoming public hearing on its final regulations relating to the utilization of regulatory accounting practices (RAP) by Farm Credit System (System) institutions. The final regulations were published in the **Federal Register** on December 24, 1986 (51 FR 46597), and technical amendments to the regulations are published in this issue of the **Federal Register**. The public hearing is to be held in two consecutive sessions at separate locations.

DATES: The public hearings will be held on February 6, 1987, in Kansas City, Missouri, and February 26, 1987, in McLean, Virginia.

ADDRESS: Submit requests to appear and present testimony at a session of the public hearing in writing (in triplicate) to Kenneth J. Auberger, Secretary, Farm Credit Administration Board, Farm Credit Administration, McLean, VA 22102-5090.

FOR FURTHER INFORMATION CONTACT: Kenneth J. Auberger, Secretary, Farm Credit Administration Board, 1501 Farm Credit Drive, McLean, VA 22102-5090, (703) 883-4010.

SUPPLEMENTARY INFORMATION: At its regular monthly meeting on January 15, 1987, the FCA Board ordered that a public hearing be held, in two sessions, to afford supplemental public comment on the final regulations as modified by the technical amendments which appear in this issue of the **Federal Register** relating to the utilization of RAP by System institutions and the reporting and disclosure requirements associated there with. The sessions of the hearing will be held in Kansas City at the Hilton Airport Plaza Inn on February 6, 1987, from 8:30 AM until 3:00 PM; and in Washington, DC at the FCA offices in McLean, Virginia on February 26, 1987, from 9:00 AM until 4:00 PM.

In promulgating the regulations, the FCA Board had ordered that, although the regulations should be effective immediately upon publication, the public should be afforded a comment period ending February 24, 1987, to submit written comments on the regulations. Because of the amount of interest that has been expressed on the regulations, the FCA Board ordered, at its January 15, 1987 meeting, that a public hearing be held on the regulations.

A person who wishes to present testimony at a session of the hearing must request that their name be placed on the calendar not less than 72 hours prior to the session of the hearing at which they wish to appear. Requests will be honored in the order received. The request should state the name, address and telephone number of the person wishing to testify; the session at which the person plans to appear; and the general nature of the testimony which they will offer.

Formal presentations will be restricted to 5 minutes per person. In order to facilitate discussion on the record, witnesses must submit a detailed or summary statement of the text of their comments prior to the session at which they plan to testify. Persons will be notified by the FCA of acceptance of their request. All documents and testimony received by the FCA as part of the public hearing process will be made part of the public record and will be available for public inspection at the FCA's offices in McLean, Virginia.

The FCA notes that the hearing is to solicit the views of interested parties concerning the content of the regulations and their application to System institutions. The FCA will not accept testimony or written statements in connection with the hearing which are not confined to this subject.

Kenneth J. Auberger,

Secretary, Farm Credit Administration Board.

[FR Doc. 87-1637 Filed 1-22-87; 8:45 am]

BILLING CODE 6705-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-CE-38-AD; Amendment 39-5524]

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Models EMB-110P1 and EMB-110P2 Airplanes

AGENCY: Federal Aviation Administration (FAA), Dot.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to EMBRAER Models EMB-110P1 and EMB-110P2 airplanes, which requires inspection of the main landing gear wheel axle/piston tube support junction for cracks and the proper fillet radius, and replacement or rework of these parts as required. This action is prompted by reports of three cracks or complete failures of the axle. This action will detect these cracks and cause the wheel axle/piston tube assembly to be removed from service before failure which could result in loss of control of the airplane.

DATES: Effective March 1, 1987.

Compliance: As prescribed in the body of the AD.

ADDRESSES: EMBRAER Service Bulletins (S/B) No. 110-032-0071, dated July 29, 1986, and No. 110-032-0068, dated December 20, 1985, applicable to this AD may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343-CEP, 12.200, Sao Jose dos Campos, Sao Paulo, Brazil. A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis A. Jackson, ACE-120A, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, Suite 210, 1669 Phoenix Parkway, Atlanta, Georgia 30349; Telephone (404) 991-2910.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring inspection of the main landing gear wheel axle/piston tube support junction for cracks on certain EMBRAER Models EMB-110P1 and EMB-110P2 airplanes was published in the **Federal Register** on September 30, 1986 (51 FR 34647). The proposal resulted from three reports of cracks or complete failures of the main landing gear wheel axle/piston

tube supports on EMBRAER Models EMB–110P1 and EMB–110P2 airplanes which could result in loss of control of the airplane during takeoff or landing. As a result, to prevent failure of the main landing gear wheel axle, EMBRAER has issued S/B No. 110–032–0068, dated December 20, 1985, which provides instructions for the inspection of the wheel axles/piston tube support junctions for cracks on airplanes with 6,000 or more landings. The Centro Technico Aerospacial (CTA), who has responsibility and authority to maintain the continuing airworthiness of these airplanes in Brazil issued CTA AD 86–01–01 and has classified the service bulletin and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes. On airplanes operated under Brazilian registration, this action has the same effect as an AD on airplanes certified for operation in the United States. EMBRAER has also issued S/B No. 110–032–0071, dated July 29, 1986, which provides instructions for inspection within the next 500 hours time-in-service and rework, if necessary, of the fillet in the main landing gear wheel axle/piston tube support junction area. The CTA classified S/B 110–032–0071 as mandatory by issuing CTA AD 86–01–01R1.

The FAA relies upon the certification of the CTA combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design certificated for operation in the United States. The FAA examined the available information related to the issuance of EMBRAER S/B No. 110–032–0068, S/B No. 110–032–0071, and the mandatory classification of these service bulletins by CTA Directive (AD) 86–01–01R1, dated August 13, 1986.

Based on the foregoing, the FAA considers that the conditions addressed by these service bulletins are unsafe conditions that may exist on other products of this type design certificated for operation in the United States. Accordingly, the FAA proposed an amendment to Part 39 of the FAR to include an AD on this subject. Interested persons have been afforded an opportunity to comment on the proposal. No comments were received. One editorial change was made by listing the new FAA Atlanta Aircraft Certification Office address. Accordingly, the proposal is adopted without change except as noted above. The FAA has determined that this regulation involves 124 airplanes at an approximate one-time cost of $590 for each airplane or a total one-time fleet cost of $73,160.

The cost of compliance with the AD is so small that the expense of compliance will not have a significant financial impact on any small entities operating these airplanes.

Therefore, I certify that this section: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **"ADDRESSES."**

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the FAR as follows:

(1) The authority citation for Part 39 continues to read as follows: Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); 14 CFR 11.89.

(2) By adding the following new AD:

Empresa Brasileira de Aeronautics S.A. (EMBRAER): Applies to Models EMB–110P1 and EMB–110P2 (all serial numbers) airplanes certificated in any category.

Compliance: Required as indicated after the effective date of this AD, unless already accomplished.

To prevent failure of the main landing gear wheel axle/piston tube assembly, accomplish the following:

(a) Within the next 1,000 landings after the effective date of this AD:

(1) Inspect the fillet area in the main landing gear wheel axle/piston tube support junction area for cracks in accordance with instructions contained in EMBRAER Service Bulletin (S/B) No. 110–032–0068, dated December 20, 1985, using eddy current, dye penetrant, or magnetic particle inspection methods. Prior to further flight, if a crack is found during this inspection, replace the wheel axle/piston tube assembly with an airworthy assembly, and inspect the replacement assembly in accordance with paragraph (a)(2) of this AD.

(2) Visually inspect the fillet radius in the main landing gear wheel axle/piston tube support junction area in accordance with EMBRAER S/B No. 110–032–0071 dated July 29, 1986.

(i) If the fillet is in accordance with Figure 1A of S/B No. 110–032–0071 return the axle to service in accordance with EMBRAER S/B No. 110–032–0071.

(ii) If the fillet is in accordance with Figure 1B of S/B No. 110–032–0071:

(A) Rework the fillet area within the next 1,000 landings in accordance with this service bulletin, or

(B) Re-inspect for cracks at intervals not to exceed 1,000 landings in accordance with paragraph (a)(1) of this AD until the rework is accomplished.

(iii) Prior to further flight, if a crack is found during this inspection, replace the wheel axle/piston tube assembly with an airworthy assembly, and inspect the replacement assembly in accordance with paragraph (a)(2) of this AD.

(b) If the actual number of landings is unknown for the purpose of complying with this AD, one landing may be substituted for each ½ hour of flight unless the operator substantiates different flight hours to landing ratio. This substantiation must be submitted to and approved by the Manager, Atlanta Aircraft Certification Office, address below.

(c) Report in writing the results of each inspection within 7 calendar days to the Federal Aviation Administration, Atlanta Aircraft Certification Office, Suite 210, 1669 Phoenix Parkway, Atlanta, Georgia 30349; Telephone: (404) 991–2910. This report must include the following by aircraft serial number: a) if the fillet needs rework, b) if cracks were found, c) the number of landings for each main gear. For airplanes modified for SFAR 41A operation, provide the number of landings on each gear assembly before and after the SFAR 41A modification. (Reporting approved by the Office of Management and Budget under OMB No. 2120–0056.)

(d) Airplanes may be flown in accordance with Federal Aviation Regulation 21.197 to a location where the AD may be accomplished

(e) An equivalent method of compliance with this AD may be used if approved by the Manager, Atlanta Aircraft Certification Office, FAA, Suite 210, 1669 Phoenix Parkway, Atlanta, Georgia 30349; Telephone: (404) 991–2910.

All persons affected by this directive may obtain the documents referred to herein upon request to EMBRAER, P.O. Box 343–CE, 12.200 Sao Jose dos Campos, Sao Paulo, Brazil; or FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on March 1, 1987.

Issued in Kansas City, Missouri, on January 15, 1987.

T.R. Beckloff, Jr.,

Acting Director, Central Region.

[FR Doc. 87–1585 Filed 1–23–87; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 86-CE-48-AD; Amendment 39-5521]

Airworthiness Directives; Taylorcraft Models BC, BCS, BC-65, BCS-65, BC12-65 (Army L-2H), BCS12-65, BC12-D, 19, F19, F21 and F21A Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Taylorcraft Models BC, BCS, BC-65, BCS-65, BC12-65 (Army L-2H), BCS12-65, BC12-D, 19, F19, F21, and F21A airplanes which requires inspection of oil pressure gauge hose assemblies and replacement of defective assemblies with a new assembly. Failures of improperly manufactured oil pressure gauge hose assemblies, which resulted in rapid loss of engine oil, have been reported. The proposed inspection and replacement will remove defective hose assemblies from service and prevent the occurrence of oil pressure hose failure, loss of engine lubricating oil, and possible engine failure.

EFFECTIVE DATES: March 1, 1987.

Compliance: Required within the next 50 hours time-in-service (TIS) after the effective date of this AD.

ADDRESSES: Replacement parts and information may be obtained from the Taylorcraft Aviation Corporation, P.O. Box 947, Lock Haven, Pennsylvania 17745; Telephone (717) 748-6712. A copy of this information is also contained in the Rules Docket, FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Ray O'Neill, FAA, ANE-174, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581; Telephone (516) 791-7421.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring inspection and, if necessary, replacement of suspect oil pressure gauge hose assemblies on Taylorcraft Models BC, BCS, BC-65, BCS-65, BC12-65 (Army L-2H), BCS12-65, BC12-D, 19, F19, F21 and F21A airplanes was published in the **Federal Register** on Friday, October 24, 1986, (51 FR 37739 and 37740). The proposal resulted from a post flight inspection of a Taylorcraft Model F21B airplane which revealed engine lubricating oil leaking profusely from the oil pressure gauge line hose assembly. Although four quarts of the six-quart capacity were lost in about one hour flying time, the loss was not yet sufficient to damage the engine.

Taylorcraft factory stock of these hose assemblies were subsequently inspected, and many units were found defective because of improper assembly procedures when inserting P/N 441-2-4B Stratoflex fitting into P/N 203-4 Stratoflex hose. This resulted in hose internal reinforcement braid damage that decreased the capability of the hose assembly to withstand normal operating pressures without failing. Further investigation revealed that at least three rupture type failures had occurred during production pressure checks of this type of hose assembly at the factory.

Taylorcraft has determined that the defective hose assemblies all originated at their former Alliance, Ohio facility and were either installed during production or shipped as replacement parts to the field for older airplane types. Because Taylorcraft has no method of determining distribution of the defective hose assemblies from their Alliance facility, regulatory action is necessary. Interested persons have been afforded an opportunity to comment on the proposal. No comments or objections were received on the proposal. Accordingly, the proposal is adopted without change.

The FAA has determined that this regulation only involves 2,047 airplanes at an approximate one-time cost of $45 for each airplane, or a total one-time fleet cost of $92,115.

The cost of compliance with the proposed AD is so small that the expense of compliance will not be a significant financial impact on any small entities operating these airplanes.

Therefore, I certify that this action: (1) Is not a "major rule" under the provisions of Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the FAR as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new AD:

Taylorcraft: Applies to the following models and serial number airplanes certificated in any category:

Models	Serial No.
BC, BCS, BC-65, BCS-65, BC12-65 (Army L-2H), BCS12-65, BC12-D.	All serial numbers.
19, F19	All serial numbers.
F21	F-1000 through F-1499 except F-1022.
F21A	F-1500 through F-1506.

Compliance: Required within the next 50 hours time-in-service after the effective date of this Ad, unless already accomplished.

To prevent loss of engine oil and possible failure of the engine, accomplish the following:

(a) Visually inspect the oil pressure gauge hose assembly at the engine to determine whether the type of hose assembly installed is P/N B7071. (See Fig. 1)

(1) If the oil pressure hose assembly is not of the type illustrated in Figure 1, no further action in accordance with this AD is required.

(2) If the oil pressure hose assembly is of the type illustrated in Figure 1, prior to the next flight, replace with a new P/N B7071 hose assembly identified by Taylorcraft with a "T" stamped on one of the wrenching flats on one of the hose assembly brass fittings.

(b) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(c) An equivalent means of compliance with this Ad may be used if approved by the Manager, New York Aircraft Certification Office, ANE-170, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581.

All persons affected by this AD may obtain copies of documents referred to herein upon request to the Taylorcraft Aviation Corporation, P.O. Box 947, Lock Haven, Pennsylvania 17745; or FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on March 1, 1987.

Issued in Kansas City, Missouri, on January 15, 1987.

Jerold M. Chavkin,

Acting Director, Central Region.

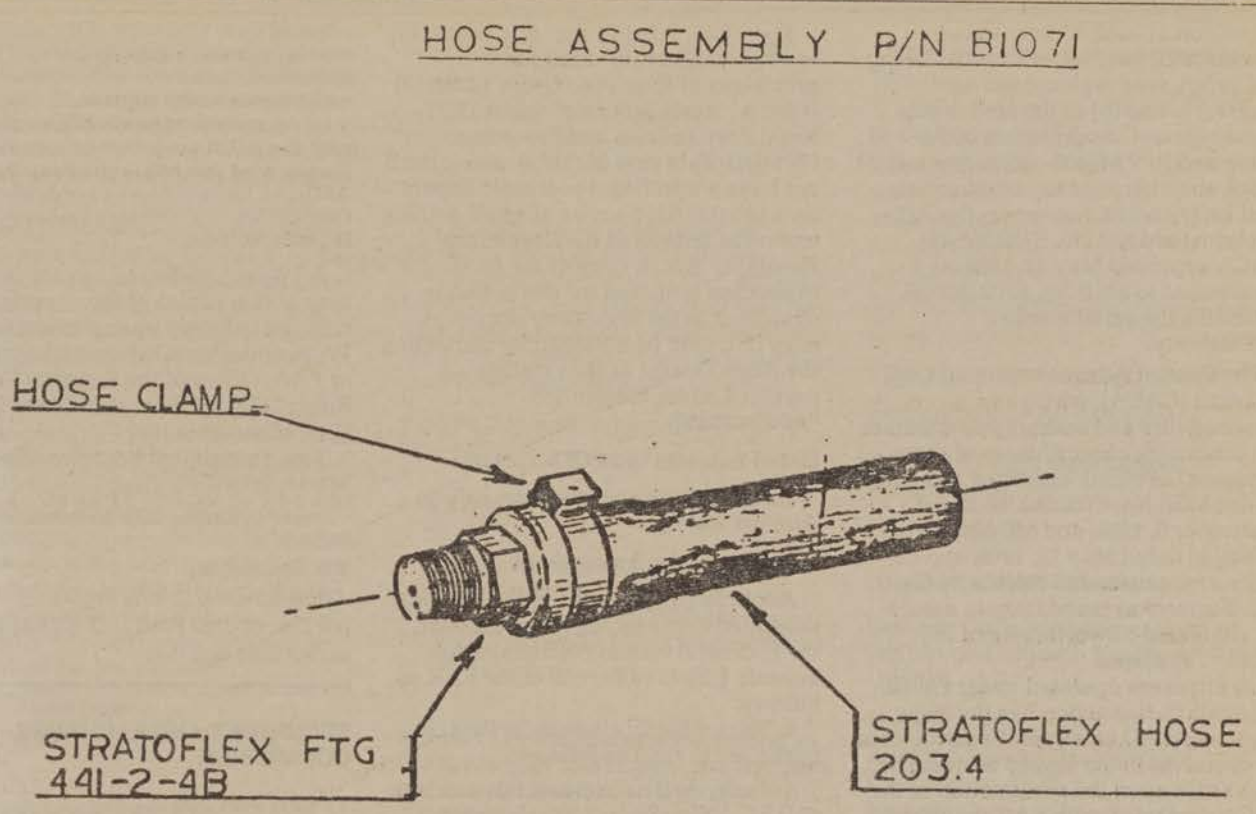

FIGURE 1

[FR Doc. 87-1586 Filed 1-23-87; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 86-CE-35-AD; Amendment 39-5522]

Airworthiness Directive; Wytwornia Sprzetu Komunikacyjnego, PZL-Mielec Model M18 Dromader Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Wytwornia Sprzetuc Komunikacyjnego, PZL-Mielec Model M18 Dromader airplanes, which requires replacement of the safety wire on the engine mount shock absorber nuts and inspection of the tightness of the nuts until improved safety wiring changes are made. This action is the result of reports of loose engine mount shock absorber nuts. Compliance with this AD will prevent loss of integrity of the engine mount attachment structure.

EFFECTIVE DATE: March 1, 1987.

Compliance: As described within the body of this AD.

ADDRESSES: Wytwornia Sprzetu Komunikacyjnego PZL-Mielec Mandatory Service Bulletin (MSB) No. E/02.082/85, CACA approved September 6, 1985, and Mandatory Bulletin (MB) No. E/02.098/86, CACA approved May 23, 1986, applicable to this AD may be obtained from Wytwornia Sprzetu Komunikacyjnego, PZL-Mielec, 39-301 Mielec Poland. A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106

FOR FURTHER INFORMATION CONTACT: Mr. M. Dearing, Brussels Aircraft Certification Office, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, B-1000 Brussels, Belgium; Telephone 513.38.30; or Mr. John P. Dow, Sr., FAA, ACE-109, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374-6932.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring inspection and tightening of the engine mount nuts, replacement of safety wire, and modification of the engine frame on certain Wytwornia Sprzetu Komunikacyjnego, PZL-Mielec Model M18 Dromader airplanes was published in the **Federal Register** on October 22, 1986 (51 FR 37414). The proposal resulted from several reports of loose nuts (P/N M6400-105) which were found on PZL-Mielec Model M18 airplanes operated in the German Democratic Republic. These nuts are attached to the engine mount shock absorbers. PZL-Mielec issued MSB No. E/02.082/85, CACA approved September 6, 1985, which requires: (a) Replacement of the 0.8mm safety wire on the P/N M6400-105 engine mount shock absorber nuts with 1.0 or 1.2mm (0.039 inch to 0.047 inch) safety wire and

inspection at each 50 hour time-in-service (TIS) interval, with retightening and safety wire replacement as necessary, and (b) at the next engine frame removal, modification of the frame and P/N M6400–105 engine mount shock absorber nuts to accommodate dual safety wires. Subsequently, PZL-Mielec issued MB No. E/02.098/86, CACA approved May 23, 1986, as a supplement to MSB No. E/02.082/85, extending the serial number applicability.

The Central Administration of Civil Aviation (CACA), which has responsibility and authority to maintain the continuing airworthiness of these airplanes is Poland, classified this PZL-Mielec MSB No. E/02.082/85 dated September 6, 1985, and MB No. E/02.098/86 dated May 23, 1986, and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes.

On airplanes operated under Polish registration, this action has the same effect as an AD on airplanes certificated for operation in the United States. The FAA relies upon the certification of the CACA combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design certificated for operation in the United States.

The FAA examined the available information related to the issuance of PZL-Mielec MSB No. E/02.082/85 dated September 6, 1985, and MB No. E/02.098/86 dated May 23, 1986, and the mandatory classification of this service information by the CACA, and concluded that the condition addressed by PZL-Mielec MSB No. E/02.082/85 dated September 6, 1985, and MB No. E/02.098/86 dated May 23, 1986, was an unsafe condition that may exist on other airplanes of this type certificated for operation in the United States. Accordingly, the FAA proposed an amendment to Part 39 of the FAR to include an AD on this subject.

Interested persons have been afforded an opportunity to comment on the proposal. No comments or objections were received on the proposal. Minor editorial changes have been made in the final rule, one which corrects an omission by adding ". . . 1Z105–01 through . . ." to the effectively. These changes do not impact the content of the Ad. The FAA has determined that this regulation involves 63 airplanes at an approximate cost of $280 for each airplane, or a total cost of $17,640.00.

Therefore, I certify that this action: (1) Is not a "major rule" under the provisions of Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **"ADDRESSES".**

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the FAR as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new AD:

Wytwornia Sprzetu Komunikacyjnego, PZL–Mielec: Applies to Model M18 Dromader (Serial Number 1Z001–01 through 1Z014–30, and 1Z015–01 through 1Z016–03) airplanes certificated in any category.

Compliance: Required as indicated after the effective date of this AD, unless already accomplished.

To prevent loosening of the engine mount shock absorber nuts, accomplish the following:

(a) Within the next 100 hours time-in-service (TIS), replace all 0.8mm safety wire on the M6400–105 nuts with 1.0 to 1.2mm (0.039 inch to 0.047 inch) wire as described in paragraph III.1, PZL–Mielec M18 Mandatory Service Bulletin (MSB) No. E/02.082/85 dated September 6, 1985.

(b) Within the next 100 hours TIS and at each 100 hours TIS thereafter, visually inspect the Part Number M6400–105 nuts for security. If loose, prior to further flight, tighten and secure as described in paragraph III.2 of the subject MSB.

(c) Within the next 600 hours TIS or the next time the engine frame is removed, whichever occurs first, perform the engine frame modification described in paragraph III.3 of the subject MSB.

(d) The actions in paragraph (b) of this AD may be discontinued after accomplishment of the modification described in paragraph (c) of this AD.

(e) Aircraft may be flown in accordance with Federal Aviation Regulation 21.197 to a location where this AD can be accomplished.

(f) The intervals between the repetitive inspections required by this AD may be adjusted up to 10 percent of the specified interval to allow accomplishment of these inspections concurrent with other scheduled maintenance on the airplane.

(g) An equivalent means of compliance with this AD, if used, must be approved by the Manager, Aircraft Certification Staff, AEU–100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, B–1000 Brussels, Belgium.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to Wytwornia Sprzetu Komunikacyjnego; or FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on March 1, 1987.

Issued in Kansas City, Missouri, on January 15, 1987.

T.R. Beckloff, Jr.,

Acting Director, Central Region.

[FR Doc. 87–1587 Filed 1–23–87; 8:45 am]

BILLING CODE 4910–13–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release No. 33–6684; 34–24002; 35–24303; 39–2060; IC–15542; IA–1054]

Closing of the Washington Regional Office

AGENCY: Securities and Exchange Commission.

ACTION: Rule amendments.

SUMMARY: The Commission is publishing amendments to its rules to reflect the closing of the Washington Regional Office, located in Arlington, Virginia, and change in status of the Commission's Philadelphia, Pennsylvania location from a branch to a regional office. The new Philadelphia Regional Office will service the same geographic area previously serviced by the Washington Regional Office, namely, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, and the District of Columbia.

EFFECTIVE DATE: January 26, 1987.

FOR FURTHER INFORMATION CONTACT: Carol K. Scott, Assistant General Counsel (202–272–2474), or Robert Mills, Counsel to the Associate General Counsel (202–272–2436), Office of the General Counsel, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The work of the Commission is handled in part by nine Regional Offices, each of which governs a specific geographic

area. Region 9 is composed of Virginia, West Virginia, the District of Columbia, Maryland, Delaware, and Pennsylvania. The Regional Office for this region had been located in Arlington, Virginia, and was called the Washington Regional Office. On May 19, 1986, the branch office in Philadelphia was upgraded to the Regional Office for Region 9, and the Washington Regional Office was closed. The functions and duties of the Washington Regional Office are now being handled by the Philadelphia Regional Office.

Four subsections of 17 CFR Part 200 are being amended to delete references to the Washington Regional Office and add information pertaining to the new Philadelphia Regional Office.

In addition, as required by the **Federal Register**, certain authority citations are being amended to add citations for the sections being revised if those authorities have not been included in the citation for the subpart.

Text of Amendments

17 CFR Part 200 is amended as follows:

PART 200—[AMENDED]

Subpart A—Organization and Program Management

1. The authority citation for Part 200, Subpart A, is amended by adding the following section:

Authority: Secs. 19, 23, 48 Stat. 85, 901, as amended, sec. 20, 49 Stat. 833, sec. 319, 53 Stat. 1173, secs. 38, 211, 54 Stat. 841, 855 (15 U.S.C. 77s, 78w, 79t, 77sss, 80a–37, 80b–11), * * * § 200.11 is also issued under 11 U.S.C. 901, 1109(a).

2. Section 200.11 is amended by revising "Region 9" in paragraph (b) as follows:

§ 200.11 Headquarters Office—Regional Office relationship.

* * * * *

(b) * * *

Region 9. Pennsylvania, Maryland, Virginia, West Virginia, Delaware, District of Columbia—Regional Administrator, Room 2204, William J. Green, Jr. Federal Building, 600 Arch Street, Philadelphia, Pennsylvania 19106.

Subpart D—Information and Requests

3. The authority citation for Part 200, Subpart D, is amended by adding the following section:

Authority: 80 Stat. 383, as amended, 31 Stat. 54, secs. 19, 23, 48 Stat. 85, 901, as amended, sec. 20, 49 Stat. 833, sec. 319, 53 Stat. 1173, secs. 38, 211, 54 Stat. 841, 855; 5 U.S.C. 552, 15 U.S.C. 77s, 78w, 79t, 77sss, 80a–37, 80b–11, * * *. § 200.80 is also issued under 5 U.S.C. 552b; Pub. L. 87–592, 76 Stat. 394, 15 U.S.C. 78d–1, 78d–2; Pub. L. 93–502; Pub. L. 93–579; 15 U.S.C. 78a *et. seq.*, as amended by Pub. L. 84–29 (June 4, 1975) and by secs. 11A, 15, 19 and 23 of Pub. L. 98–38 (June 6, 1983) (15 U.S.C. 78k–1, 78o, 78s and 78w); 11 U.S.C. 901, 1109(a).

4. Section 200.80 is amended by adding to paragraph (c)(1)(iii) the "Philadelphia Regional Office" as listed below, which will appear after the "New York Regional Office," and by removing the complete reference to and address of the "Washington Regional Office."

§ 200.80 Commission records and information.

* * * * *

(c)(1) * * *

(iii) * * *

Philadelphia Regional Office, Room 2204, William J. Green, Jr. Federal Building, 600 Arch Street, Philadelphia, Pennsylvania 19106, (215–597–3100). Office hours—9:00 a.m. to 5:30 p.m. e.s.t.

* * * * *

Subpart H—Regulations Pertaining to the Privacy of Individuals and Systems of Records Maintained by the Commission

5. The authority citation for Part 200, Subpart H, is amended by adding the following section:

Pub. L. 93–579, sec. (f), 5 U.S.C. 552(a)(f), * * *. § 200.312 is also issued under Pub. L. 93–579, Sec. k, 5 U.S.C. 552a(k).

6. Section 200.303(a)(2), listing regional and branch offices, is amended by revising the name of the "Philadelphia Branch Office" to read "Philadelphia Regional Office," and by removing the complete reference to and address of the "Washington Regional Office."

7. Section 200.312 is amended by revising paragraph (a)(17), removing paragraph (a)(22), and redesignating paragraphs (a)(23) through (a)(30) as paragraphs (a)(22) through (a)(29) as follows:

§ 200.312 Specific exemptions.

* * * * *

(a) * * *

(17) Philadelphia Regional Office Investigatory Files; * * *

(22) Office of the General Counsel Working Files;

(23) Office of the Chief Accountant Working Files;

(24) Investigations and Actions Index;

(25) Complaint Processing System;

(26) Investor Service Complaint Index;

(27) Name-Relationship Index System;

(28) Rule 2(e) of the Commission's Rules of Practice—Appearing or Practicing Before the Commission;

(29) Division of Enforcement Liaison Working Files.

* * * * *

By the Commission.

Jonathan G. Katz,

Secretary.

Shirley E. Hollis,

Assistant Secretary.

January 16, 1987.

[FR Doc. 87–1694 Filed 1–23–87; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 37

[Docket No. RM86–12–000]

Generic Determination of Rate of Return on Common Equity for Public Utilities

January 20, 1987.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Benchmark Rate of Return on Common Equity for Public Utilities.

SUMMARY: In accordance with § 37.5, the Commission issues the update to the "advisory" benchmark rate of return on common equity applicable to rate filings made during the period February through April 1987. This rate is set at 11.20 percent.

EFFECTIVE DATE: February 1, 1987.

FOR FURTHER INFORMATION CONTACT: Ronald L. Rattey, Office of Regulatory Analysis, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357–8293.

SUPPLEMENTARY INFORMATION: .

Benchmark Rate of Return on Common Equity for Public Utilities

On December 24, 1986, the Commission issued a final rule which amended the quarterly indexing procedure for establishing and updating the benchmark rate of return on common equity applicable to electric rate filings.[1] Based on this amended procedure, the Commission determines that the benchmark rate of return on common equity applicable to rate filings made during the period February 1 through April 30, 1987 is 11.20 percent.

[1] Generic Determination of Rate of Return on Common Equity for Public Utilities, 52 FR 11 (January 2, 1987) (Docket No. RM86–12–000) (Final Rule) (Order No. 461).

According to the amended § 37.9, each quarterly benchmark rate or return is set equal to the average cost of common equity for the jurisdictional operations of public utilities. This average cost is based on the average of the median dividend yields for the two most recent calendar quarters for a sample of 100 utilities. The average yield is used in the following formula with fixed adjustment factors (determined in the annual proceeding) to determine the cost rate:

$$k_t = 1.02Y_t + 4.63$$

where k_t is the average cost of common equity and Y_t is the average dividend yield.

The median dividend yield for the sample of utilities for the third and fourth calendar quarters of 1985 are 6.33 and 6.54 percent, respectively, for an average of 6.44 percent. Using the latter yield produces an average cost of common equity of 11.20 percent. The attached appendix provides the supporting data for this update.

Generally, a rule becomes effective not less than 30 days after it is published in the **Federal Register**. A rule may become effective sooner if the agency finds that there is good cause to do so. 5 U.S.C. 553(d) (1982). The Commission finds good cause to make this rule effective February 1, 1987. Specifically, this notice is intended to supplement the generic rate of return rule announced in Order No. 461, issued December 24, 1986 and effective on February 1, 1987, by applying the method adopted in that rule to data which was not available until after January 1, 1987.

List of Subjects in 18 CFR Part 37

Electric power rates, Electric utilities, Rate of return.

In consideration of the foregoing, the Commission amends Chapter I, Title 18 of the *Code of Federal Regulations*, as set forth below, effective February 1, 1987.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

PART 37—[AMENDED]

1. The authority citation for Part 37 continues to read as follows:

Authority: Federal Power Act, 16 U.S.C. 791a–825r (1982); Department of Energy Organization Act 42 U.S.C. 7101–7352 (1982).

2. In paragraph (d) of § 37.9, the table is revised to read as follows:

§ 37.9 Quarterly indexing procedure.

* * * * *

(d) * * *

Benchmark Applicability Period (t)	Dividend Increase Adjustment Factor (a)	Expected Growth Adjustment Factor (b)	Current Dividend Yield (Y_t)	Cost of Common Equity (k_t)	Benchmark Rate of Return
February 1, 1986 to April 30, 1986	1.02	4.54	9.03	13.75	13.75
May 1, 1986 to July 31, 1986	1.02	4.54	8.37	13.08	13.25
August 1, 1986 to October 31, 1986	1.02	4.54	7.49	12.18	12.75
November 1, 1986 to January 31, 1987	1.02	4.54	6.75	11.43	12.25
February 1, 1987 to April 30, 1987	1.02	4.63	6.44	11.20	11.20

Appendix

Note: This Appendix will not be shown in the Code of Federal Regulations.

Exhibit No. and Title

1—Initial Sample of Utilities
2—Utilities Excluded From the Sample for the Indicated Quarter due to Either Zero Dividends or a Cut in Dividends for This Quarter or the Prior Three Quarters
3—Quarterly Dividend Yields for the Indicated Quarters for Utilities Retained in the Sample

Source of Data: Standard and Poor's Compustat Service Inc., Utility COMPUSTAT® II Quarterly Data Base.

EXHIBIT I

Note: Exhibits I, II and III will not be shown in the Code of Federal Regulations.

INITIAL SAMPLE OF UTILITIES

[10:59 Wednesday, January 7, 1987]

Utility	Ticker Symbol
Allegheny Power System	AYP
American Electric Power	AEP
Atlantic City Electric	ATE
AZP Group	AZP
Baltimore Gas & Electric	BGE
Black Hills Corp	BKH
Boston Edison Co	BSE
Carolina Power & Light	CPL
Centerior Energy Corp	CX
Central & South West Corp	CSR
Central Hudson Gas & Elec	CNH
Central Ill Public Service	CIP
Central Louisiana Electric	CNL
Central Maine Power Co	CTP

INITIAL SAMPLE OF UTILITIES—Continued

[10:59 Wednesday, January 7, 1987]

Utility	Ticker Symbol
Central Vermont Pub Serv	CV
CilCorp Inc	CER
Cincinnati Gas & Electric	CIN
Commonwealth Edison	CWE
Commonwealth Energy System	CES
Consolidated Edison of NY	ED
Consumers Power Co	CMS
Delmarva Power & Light	DEW
Detroit Edison Co	DTE
Dominion Resources Inc—VA	D
DPL Inc	DPL
Duke Power Co	DUK
Duquesne Light Co	DQU
Eastern Utilities Assoc	EUA
Empire District Electric Co	EDE
Fitchburg Gas & Elec Light	FGE
Florida Progress Corp	FPC
FPL Group Inc	FPL
General Public Utilities	GPU
Green Mountain Power Corp	GMP
Gulf States Utilities Co	GSU
Hawaiian Electric Inds	HE
Houston Industries Inc	HOU
I E Industries Inc	IEL
Idaho Power Co	IDA
Illinois Power Co	IPC
Interstate Power Co	IPW
Iowa Resources Inc	IOR
Iowa-Illinois Gas & Elec	IWG
Ipalco Enterprises Inc	IPL
Kansas City Power & Light	KLT
Kansas Gas & Electric	KGE
Kansas Power & Light	KAN
Kentucky Utilities Co	KU
Long Island Lighting	LIL
Louisville Gas & Electric	LOU
Maine Public Service	MAP
Middle South Utilities	MSU
Midwest Energy Co	MWE
Minnesota Power & Light	MPL
Montana Power Co	MTP
Nevada Power Co	NVP
New England Electric System	NES

INITIAL SAMPLE OF UTILITIES—Continued

[10:59 Wednesday, January 7, 1987]

Utility	Ticker Symbol
New York State Elec & Gas	NGE
Newport Electric Corp	NPT
Niagara Mohawk Power	NMK
Northeast Utilities	NU
Northern Indiana Public Serv	NI
Northern States Power—MN	NSP
Ohio Edison Co	OEC
Oklahoma Gas & Electric	OGE
Orange & Rockland Utilities	ORU
Pacific Gas & Electric	PCG
Pacificorp	PPW
Pennsylvania Power & Light	PPL
Philadelphia Electric Co	PE
Portland General Co	PGN
Potomac Electric Power	POM
Public Service Co of Colo	PSR
Public Service Co of Ind	PIN
Public Service Co of NH	PNH
Public Service Co of N Mex	PNM
Public Service Enterprises	PEG
Puget Sound Power & Light	PSD
Rochester Gas & Electric	RGS
San Diego Gas & Electric	SDO
Savannah Elec & Power	SAV
Scana Corp	SCG
Sierra Pacific Resources	SRP
Southern Calif Edison Co	SCE
Southern Co	SO
Southern Indiana Gas & Elec	SIG
St Joseph Light & Power	SAJ
Teco Energy Inc	TE
Texas Utilities Co	TXU
TNP Enterprises Inc	TNP
Tucson Electric Power Co	TEP
Union Electric Co	UEP
United Illuminating Co	UIL
Unitil Corp	UTL
Utah Power & Light	UTP
Utilicorp United Inc	UCU
Washington Water Power	WWP
Wisconsin Electric Power	WPC
Wisconsin Power & Light	WPL
Wisconsin Public Service	WPS

EXHIBIT II

UTILITIES EXCLUDED FROM THE SAMPLE FOR THE INDICATED QUARTER DUE TO EITHER ZERO DIVIDENDS OR A CUT IN DIVIDENDS FOR THIS QUARTER OR THE PRIOR THREE QUARTERS

[10:59 Wednesday, January 7, 1987]

Ticker symbol	Utility	Reason for exclusion
	YEAR=86 QUARTER=3	
CMS	Consumers Power Co	Dividend rate was zero for the quarter ending Sept. 30, 1986.
DQU	Duquesne Light Co	Dividend rate reduced in the quarter ending June 30, 1986.
FGE	Fitchburg Gas & Elec. Light	Dividend rate was zero for the quarter ending Sept. 30, 1986.
GPU	General Public Utilities	Dividend rate was zero for the quarter ending Sept. 30, 1986.
GSU	Gulf States Utilities Co	Dividend rate was zero for the quarter ending Sept. 30, 1986.
KGE	Kansas Gas & Electric	Dividend rate reduced in the quarter ending Dec. 31, 1985.
KLT	Kansas City Power & Light	Dividend rate reduced in the quarter ending June 30, 1986.
LIL	Long Island Lighting	Dividend rate was zero for the quarter ending Sept. 30, 1986.
MAP	Maine Public Service	Dividend rate was zero for the quarter ending Mar. 31, 1986.
MSU	Middle South Utilities	Dividend rate was zero for the quarter ending Sept. 30, 1986.
NI	Northern Indiana Public Serv	Dividend rate was zero for the quarter ending Sept. 30, 1986.
PIN	Public Service Co of Ind	Dividend rate was zero for the quarter ending Sept. 30, 1986.
PNH	Public Service Co of NH	Dividend rate was zero for the quarter ending Sept. 30, 1986.
N= 13		
	YEAR=86 QUARTER=4	
CMS	Consumers Power Co	Dividend rate was zero for the quarter ending Dec. 31, 1986.
DQU	Duquesne Light Co	Dividend rate reduced in the quarter ending June 30, 1986.
FGE	Fitchburg Gas & Elec Light	Dividend rate was zero for the quarter ending Sept. 30, 1986.
GPU	General Public Utilities	Dividend rate was zero for the quarter ending Dec. 31, 1986.
GSU	Gulf States Utilities Co	Dividend rate was zero for the quarter ending Dec. 31, 1986.
KLT	Kansas City Power & Light	Dividend rate reduced in the quarter ending June 30, 1986.
LIL	Long Island Lighting	Dividend rate was zero for the quarter ending Dec. 31, 1986.
MAP	Maine Public Service	Dividend rate was zero for the quarter ending Mar. 31, 1986.
MSU	Middle South Utilities	Dividend rate was zero for the quarter ending Dec. 31, 1986.
NI	Northern Indiana Public Serv	Dividend rate was zero for the quarter ending Dec. 31, 1986.
PIN	Public Service Co of Ind	Dividend rate was zero for the quarter ending Dec. 31, 1986.
PNH	Public Service Co of NH	Dividend rate was zero for the quarter ending Dec. 31, 1986.
N= 12		

EXHIBIT III

ANNUALIZED DIVIDEND YIELDS FOR THE INDICATED QUARTER FOR UTILITIES RETAINED IN THE SAMPLE

[10:59 Wednesday, January 7, 1987]

Ticker symbol	Price, 1st month of qrtr—high	Price, 1st month of qrtr—low	Price, 2nd month of qrtr—high	Price, 2nd month of qrtr—low	Price, 3rd month of qrtr—high	Price, 3rd month of qrtr—low	Dividends: annual rate	Annualized dividend yield
	YEAR=86 QUARTER=3							
AEP	30.000	26.250	31.500	28.000	30.750	25.625	2.260	7.878
ATE	44.375	38.125	46.625	41.750	45.250	33.750	2.620	6.288
AYP	49.500	43.250	53.500	47.625	51.875	43.500	2.920	6.057
AZP	31.250	28.375	32.000	27.500	31.875	28.000	2.720	9.117
BGE	36.250	32.250	39.875	34.750	37.750	29.875	1.800	5.125
BKH	28.000	23.625	27.000	25.375	26.000	22.000	1.140	4.500
BSE	54.000	49.000	55.750	50.000	55.500	49.000	3.440	6.589
CER	39.500	36.250	42.500	38.500	40.750	34.000	2.280	5.909
CES	43.500	38.875	45.750	40.125	45.500	37.250	2.720	6.502
CIN	28.500	24.375	31.125	26.500	30.000	24.500	2.160	7.855
CIP	30.250	25.625	30.250	28.250	29.250	24.250	1.680	6.004
CNH	38.500	32.750	39.750	36.250	39.875	34.500	2.960	8.014
CNL	38.000	32.250	37.500	34.625	37.125	33.125	2.080	5.869
CPL	39.375	33.500	42.750	37.125	42.000	35.125	2.680	6.995
CSR	34.750	31.000	37.375	32.625	37.500	31.000	2.140	6.286
CTP	19.875	17.000	19.750	17.375	20.000	17.125	1.400	7.559
CV	27.875	25.000	28.250	24.500	29.250	25.875	1.900	7.092
CWE	33.250	30.625	34.875	30.625	34.750	31.250	3.000	9.213
CX	25.875	24.125	26.625	23.625	27.750	22.375	2.560	10.214
D	49.250	41.875	52.125	47.000	49.875	43.000	2.840	6.019
DEW	37.500	33.625	38.125	34.750	37.125	30.375	2.020	5.730
DPL	28.000	23.500	28.875	26.375	29.125	23.250	2.000	7.541
DTE	17.625	16.250	18.500	16.125	18.500	16.250	1.680	9.763
DUK	49.500	44.875	52.000	47.750	50.375	41.250	2.680	5.627
ED	50.500	43.000	52.875	48.250	52.250	44.000	2.680	5.528
EDE	34.375	30.125	36.000	32.250	35.125	30.125	1.880	5.697
EUA	37.125	33.750	37.375	33.625	37.875	31.375	2.180	5.195

ANNUALIZED DIVIDEND YIELDS FOR THE INDICATED QUARTER FOR UTILITIES RETAINED IN THE SAMPLE—Continued

[10:59 Wednesday, January 7, 1987]

Ticker symbol	Price, 1st month of qrtr—high	Price, 1st month of qrtr—low	Price, 2nd month of qrtr—high	Price, 2nd month of qrtr—low	Price, 3rd month of qrtr—high	Price, 3rd month of qrtr—low	Dividends: annual rate	Annualized dividend yield
FPC	45.000	38.875	47.000	42.000	44.875	35.500	2.280	5.402
FPL	35.750	31.250	38.000	34.250	35.500	28.625	2.040	6.018
GMP	28.750	26.250	30.875	26.250	30 125	28.500	1.800	6.325
HE	35.500	30.750	34.750	32.500	33.750	29.750	1.720	5.239
HOU	34.875	30.500	37.000	33.250	36.375	31.125	2.800	8.271
IDA	29.000	26.500	30.875	26.750	29.375	23.750	1.800	6.496
IEL	26.625	23.000	27.750	25.625	27.750	23.000	1.940	7.571
IOR	26.250	23.375	27.375	24.625	27.500	22.000	1.600	6.352
IPC	27.750	25.500	32.000	26.000	32.000	28.000	2.640	9.250
IPL	55.250	49.000	59.000	52.500	56.500	47.250	3.040	5.709
IPW	31.625	27.000	30.875	29.000	29.250	25.625	1.960	6.783
IWG	46.750	41.250	46.500	42.500	46.500	39.250	2.900	6.622
KAN	61.125	52.500	65.000	60.000	61.750	50.000	3.160	5.411
KU	45.125	39.250	48.125	43.000	43.750	37.250	2.520	5.895
LOU	40.875	37.250	44.375	39.875	43.500	37.750	2.600	6.403
MPL	32.875	26.500	34.875	29.000	32.875	24.000	1.520	5.063
MTP	43.250	37.125	43.375	39.125	39.750	36.125	2.480	6.232
MWE	26.000	22.750	26.000	24.125	25.500	19.500	1.480	6.172
NES	33.125	27.375	35.250	30.875	35.250	26.500	1.920	6.115
NGE	35.875	32.250	37.875	33.625	38.500	30.000	2.640	7.611
NMK	24.000	21.500	24.875	22.625	24.125	19.250	2.080	9.151
NPT	21.875	21.125	22.250	20.875	22.750	20.375	1.500	6.963
NSP	38.000	33.125	39.750	35.750	40.125	31.000	1.900	5.235
NU	25.625	20.750	28.250	24.125	26.875	22.250	1.680	6.817
NVP	25.188	21.125	24.750	22.500	24.625	19.125	1.440	6.292
OEC	20.125	18.750	22.500	19.500	22.000	18.000	1.920	9.531
OGE	37.000	31.125	38.750	35.625	37.500	32.000	2.080	5.887
ORU	37.500	34.875	40.000	36.000	38.625	31.125	2.180	5.997
PCG	25.750	22.375	27.500	24.250	27.375	22.250	1.920	7.706
PE	23.000	19.875	25.125	22.375	23.500	20.250	2.200	9.842
PEG	44.250	36.625	48.250	42.000	44.875	38.625	2.960	6.975
PGN	35.500	30.000	36.750	32.000	34.500	28.250	1.960	5.970
PNM	35.875	33.000	37.750	33.250	37.875	32.500	2.920	8.333
POM	52.125	45.875	59.250	49.250	54.375	43.125	2.360	4.658
PPL	39.125	33.375	43.375	37.750	41.875	35.250	2.600	6.761
PPW	36.750	34.000	38.000	33.625	37.875	32.000	2.400	6.784
PSD	24.000	22.000	24.625	20.750	25.250	20.750	1.760	7.687
PSR	20.375	18.750	21.375	19.625	21.375	16.000	2.000	10.213
RGS	28.875	25.375	29.125	25.750	29.875	24.750	2.200	8.061
SAJ	36.750	32.000	37.125	35.000	36.250	33.875	1.820	5.175
SAV	18.313	16.875	20.875	17.187	22.250	16.750	0.880	4.704
SCE	35.875	30.375	38.750	34.625	38.125	31.125	2.280	6.549
SCG	42.000	35.500	42.875	38.500	41.750	34.500	2.240	5.716
SDO	40.375	34.500	42.375	37.625	42.500	34.375	2.380	6.162
SIG	41.000	34.375	41.250	37.500	40.250	35.125	1.960	5.124
SO	26.125	23.375	27.250	23.750	27.000	23.000	2.040	8.133
SRP	25.750	24.000	29.000	24.375	27.750	23.750	1.720	6.674
TE	54.875	46.375	52.250	48.750	50.125	41.875	2.520	5.138
TEP	64.875	57.250	65.000	62.125	63.500	51.000	3.300	5.443
TNP	24.000	20.500	23.750	22.250	22.750	20.000	1.320	5.944
TXU	33.875	30.250	37.500	33.125	37.000	31.250	2.680	7.921
UCU	33.875	29.750	34.375	32.375	34.625	31.125	1.480	4.526
UEP	29.250	25.000	31.750	28.125	30.625	25.625	1.840	6.480
UIL	33.250	30.125	36.125	30.750	36.250	31.125	2.320	7.044
UTL	36.875	33.875	36.500	34.875	34.875	33.000	1.800	5.143
UTP	35.000	29.500	37.250	33.375	34.750	29.125	2.320	6.995
WPC	59.500	53.500	64.500	58.125	61.375	52.250	2.680	4.604
WPL	57.250	49.250	60.250	55.250	57.625	48.500	2.960	5.413
WPS	56.500	50.500	63.000	56.500	60.500	51.250	3.000	5.322
WWP	31.625	29.000	31.250	28.375	30.750	27.000	2.480	8.360
	YEAR=86 QUARTER=4							
AEP	30.000	26.875	30.125	27.500	29.750	27.000	2.260	7.918
ATE	40.750	37.000	41.375	38.750	40.500	37.000	2.620	6.679
AYP	49.250	45.375	48.125	46.125	49.000	43.375	2.920	6.229
AZP	29.625	28.250	29.250	27.500	29.625	28.125	2.720	9.468
BGE	36.500	32.750	36.000	34.000	36.000	33.625	1.800	5.171
BKH	25.250	23.125	25.250	22.000	23.000	20.625	1.140	4.912
BSE	25.875	23.125	26.000	24.500	27.000	25.125	1.780	7.044
CER	42.250	37.125	42.125	37.750	40.000	37.500	2.280	5.778
CES	42.750	38.750	43.500	40.250	42.625	38.000	2.720	6.638
CIN	27.875	25.625	28.000	26.250	28.125	26.250	2.160	7.994
CIP	30.000	26.000	30.750	27.875	28.375	26.875	1.680	5.934
CNH	36.500	26.625	32.625	30.250	32.250	29.375	2.960	9.466
CNL	35.625	34.000	35.250	34.250	35.250	34.125	2.080	5.986
CPL	40.125	37.625	40.250	38.750	41.625	38.625	2.680	6.785
CSR	35.875	32.875	36.000	32.625	36.250	34.000	2.140	6.184
CTP	18.500	17.000	19.000	17.625	19.500	17.875	1.400	7.671
CV	27.875	25.875	27.125	25.875	28.875	26.125	1.900	7.048
CWE	33.375	31.375	34.375	32.375	35.500	32.500	3.000	9.023
CX	25.125	23.125	24.125	22.750	23.750	22.625	2.560	10.855
D	48.250	44.000	48.375	46.500	48.000	44.000	2.960	6.363
DEW	34.500	30.750	34.125	33.125	34.250	32.625	2.020	6.079
DPL	27.250	25.000	27.500	26.000	27.750	25.500	2.000	7.547
DTE	18.250	16.000	18.125	17.000	18.500	16.375	1.680	9.669
DUK	48.250	44.000	49.000	46.125	49.375	45.000	2.680	5.707
ED	47.000	44.500	49.750	46.875	49.375	46.500	2.680	5.662
EDE	33.500	30.750	34.875	32.250	34.000	32.000	2.000	6.060
EUA	36.375	31.875	38.250	35.500	39.500	37.125	2.180	5.983

ANNUALIZED DIVIDEND YIELDS FOR THE INDICATED QUARTER FOR UTILITIES RETAINED IN THE SAMPLE—Continued

[10:59 Wednesday, January 7, 1987]

Ticker symbol	Price, 1st month of qrtr—high	Price, 1st month of qrtr—low	Price, 2nd month of qrtr—high	Price, 2nd month of qrtr—low	Price, 3rd month of qrtr—high	Price, 3rd month of qrtr—low	Dividends: annual rate	Annualized dividend yield
FPC	42.500	38.500	43.750	41.875	42.625	39.250	2.400	5.795
FPL	36.000	30.250	36.750	31.750	33.250	31.125	2.040	6.147
GMP	29.875	25.750	30.000	28.375	30.250	26.125	1.800	6.339
HE	33.875	31.500	33.500	31.000	33.625	31.250	1.800	5.546
HOU	34.625	31.250	35.875	33.625	36.500	34.250	2.800	8.150
IDA	29.250	26.750	29.000	26.875	29.000	26.000	1.800	6.472
IEL	25.000	23.500	25.750	24.500	25.875	23.375	1.980	8.027
IOR	26.000	22.750	25.875	23.500	25.625	24.125	1.600	6.492
IPC	30.750	28.875	31.250	29.875	31.125	28.500	2.640	8.782
IPL	26.250	24.688	27.125	25.000	26.500	23.875	1.520	5.944
IPW	28.500	25.875	29.000	27.000	28.125	26.125	1.960	7.144
IWG	46.375	42.250	45.250	42.750	45.750	43.000	2.900	6.557
KAN	57.875	53.375	60.000	57.000	57.875	53.750	3.160	5.579
KGE	20.875	18.500	22.500	20.250	23.500	21.250	1.360	6.432
KU	42.875	40.000	44.500	41.000	43.875	40.750	2.520	5.976
LOU	41.250	39.000	41.625	39.250	41.375	36.750	2.600	6.520
MPL	32.750	29.000	33.250	30.125	31.750	29.500	1.520	4.893
MTP	38.750	36.250	39.750	38.125	41.000	38.125	2.680	6.931
MWE	24.625	22.125	24.375	21.375	23.750	21.000	1.480	6.470
NES	30.750	28.000	31.250	29.875	31.875	28.000	2.000	6.676
NGE	33.250	30.500	34.250	31.750	34.250	30.250	2.640	8.154
NMK	18.750	15.500	19.125	17.375	19.125	15.625	2.080	11.829
NPT	24.375	22.125	22.625	21.500	25.000	21.250	1.500	6.575
NSP	35.750	33.250	36.875	33.750	37.250	34.125	1.900	5.403
NU	26.375	24.250	26.625	25.500	25.875	23.875	1.680	6.610
NVP	23.250	20.750	23.125	22.000	23.000	20.125	1.440	6.533
OEC	20.125	19.125	21.000	19.250	20.500	19.500	1.920	9.640
OGE	35.375	31.250	35.875	34.250	35.875	34.500	2.080	6.025
ORU	36.375	34.000	35.750	33.625	36.500	34.000	2.180	6.221
PCG	25.125	23.375	25.625	23.750	26.125	23.750	1.920	7.797
PE	23.875	21.625	24.125	22.625	23.750	22.375	2.200	9.539
PEG	42.625	39.125	43.375	40.750	42.500	39.750	2.960	7.158
PGN	32.000	27.000	34.500	31.250	33.000	28.500	1.960	6.314
PNM	36.750	34.000	35.750	33.750	36.000	33.000	2.920	8.373
POM	53.500	47.250	53.125	48.750	51.250	48.000	2.360	4.691
PPL	39.500	36.000	40.250	37.750	39.750	36.250	2.600	6.797
PPW	36.875	33.500	36.875	34.750	36.875	35.250	2.400	6.725
PSD	23.375	21.750	23.000	21.375	22.625	20.500	1.760	7.962
PSR	19.875	16.250	19.375	17.250	19.125	17.625	2.000	10.959
RGS	25.375	21.875	24.750	23.750	24.875	21.250	2.200	9.034
SAJ	35.875	32.125	39.000	35.750	38.000	37.000	1.880	5.180
SAV	22.250	18.125	23.125	19.750	22.750	19.500	0.880	4.207
SCE	35.125	31.875	35.750	33.000	36.000	33.625	2.280	6.661
SCG	39.875	36.000	39.500	37.375	39.375	36.500	2.240	5.879
SDO	36.375	33.750	37.375	35.125	37.625	33.750	2.380	6.673
SIG	39.750	38.000	39.875	37.500	40.375	37.000	1.960	5.058
SO	25.625	24.000	26.750	24.625	27.000	25.000	2.140	8.392
SRP	26.750	25.500	26.375	25.625	26.875	25.125	1.720	6.605
TE	49.750	45.875	50.125	47.000	48.750	45.500	2.520	5.268
TEP	61.375	55.625	62.000	58.625	61.875	57.625	3.300	5.544
TNP	22.625	20.250	23.250	22.000	22.875	22.000	1.320	5.955
TXU	34.750	32.250	34.750	32.375	33.500	31.250	2.680	8.085
UCU	32.108	30.515	33.625	31.000	32.750	31.375	1.451	4.549
UEP	29.750	27.375	31.000	29.000	30.500	28.125	1.920	6.555
UIL	33.500	31.000	35.500	32.250	33.500	28.375	2.320	7.171
UTL	33.375	31.125	32.500	30.625	31.375	28.750	1.800	5.752
UTP	33.250	31.125	33.375	26.875	28.875	25.625	2.320	7.771
WPC	58.250	54.500	57.000	53.000	57.750	51.750	2.680	4.840
WPL	55.000	52.000	54.500	50.750	54.000	50.000	2.960	5.616
WPS	54.750	51.500	55.375	52.000	55.000	48.250	3.000	5.680
WWP	28.625	26.125	28.750	26.375	27.250	24.875	2.480	9.185

[FR Doc. 87-1599 Filed 1-23-87; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 207 and 558

[Docket No. 77N-0076]

New Animal Drugs for Use in Animal Feeds; Definitions and General Considerations; Revised Procedures re Medicated Feed Applications; Editorial Amendments

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) revised the current procedures and requirements concerning conditions of approval for manufacture of animal feeds containing new animal drugs in a final rule published in the **Federal Register** of March 3, 1986 (51 FR 7382). This document amends the revised regulations by correcting editorial and typographical errors, and makes minor, noncontroversial, and technical revisions.

EFFECTIVE DATES: Effective May 2, 1986, except that the provisions of 21 CFR 558.4(d), Category II, requiring the submission and approval of medicated feed applications for products formerly exempt from such requirement shall become effective March 3, 1987.

FOR FURTHER INFORMATION CONTACT: George Graber, Center for Veterinary Medicine (HFV-220), Food and Drug

Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4438.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 3, 1986 (51 FR 7382), FDA published a document that amended the animal drug regulations concerning approval for use of new animal drugs in medicated animal foods (specifically for Type A medicated articles and Type B and Type C medicated feeds). The document failed to include certain revisions in terminology, inadvertently deleted certain portions of the regulations, and failed to provide for certain numerical as well as editorial revisions. Thus, the revisions are intended to correct various errors in the final rule.

List of Subjects

21 CFR Part 207

Drugs, Reporting and recordkeeping requirements.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Parts 207 and 558 are amended as follows:

PART 207—REGISTRATION OF PRODUCERS OF DRUGS AND LISTING OF DRUGS IN COMMERCIAL DISTRIBUTION

1. The authority citation for 21 CFR Part 207 is revised to read as follows:

Authority: Secs. 201, 502, 505, 506, 507, 510, 512, 701(a), 704, Pub. L. 717, 52 Stat. 1040–1042 as amended, 1050–1053 as amended, 1055, 1057 as amended, 82 Stat. 343–351 (21 U.S.C. 321, 352, 355, 356, 357, 360, 360b, 371(a), 374); sec. 351, Pub. L. 410, 58 Stat. 702 as amended (42 U.S.C. 262); 21 CFR 5.10, 5.11.

§ 207.20 [Amended]

2. Section 207.20 *Who must register and submit a drug list* is amended in paragraph (a) by revising the parenthetical phrase "(including a feed concentrate, a feed supplement, and a complete feed)" to read "(including a Type B and Type C medicated feed)".

§ 207.25 [Amended]

3. Section 207.25 *Information required in registration and drug listing* is amended in paragraph (b)(1) by revising "drug premixes" to read "Type A articles" and in paragraph (b)(6) by revising "drug premix" and "custom premix" to read "Type A medicated article".

§ 207.35 [Amended]

4. Section 207.35 *Notification of registrant; drug establishment registration number and drug listing number* is amended in paragraph (b)(2)(iii) by revising "custom premix" to read "Type A medicated article".

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

5. The authority citation for 21 CFR Part 558 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343–351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

§ 558.3 [Amended]

6. Section 558.3 *Definitions and general considerations applicable to this part* is amended in paragraph (b)(3) in the second sentence by removing "of the Type A medicated article".

7. Section 558.4 is amended in paragraph (b) by revising the table to read as follows:

§ 558.4 Medicated feed applications.

* * * * *

(d) * * *

CATEGORY I

Drug	Assay limits percent [1] type A	Type B maximum (200x)	Assay limits percent [1] type B/C [2]
Aklomide	90–110	22.75 g/lb (5.0%)	85–120.
Ammonium chloride	90–110	4.0 oz/lb (25%)	85–115.
Amprolium with Ethopabate.	94–114	22.75 g/lb (5.0%)	80–120.
Bacitracin methylene disalicylate.	85–115	25.0 g/lb (5.5%)	70–130.
Bacitracin zinc	84–115	5.0 g/lb (1.1%)	70–130.
Bambermycins	90–110	800 g/ton (0.09%)	80–120/70–130.
Buquinolate	90–110	9.8 g/lb (2.2%)	80–120.
Chlortetracycline	85–115	40.0 g/lb (8.8%)	80–115/70–130.
Coumaphos	95–115	6.0 g/lb (1.3%)	80–120.
Decoquinate	90–105	2.72 g/lb (0.6%)	80–120.
Dichlorvos	100–115	33.0 g/lb (7.3%)	90–120/80–130.
Erythromycin (thiocyanate salt).	85–115	9.25 g/lb (2.04%)	<20g/ton 70–115/150–50:>20g/ton 75–125.
Fenbendazole	95–113	4.54 g/lb (1.0%)	75–125.
Iodinated casein	85–115	20.0 g/lb (4.4%)	75–125.
Lasalocid	100–120	40.0 g/lb (8.8%)	Type B (cattle and sheep): 80–120; Type C (all): 75–125.
Monensin	90–110	40.0 g/lb (8.8%)	Chickens: 75–125; Cattle: 5–10 g/ton 80–120; Cattle: 10–30 g/ton 85–115; Liq. feed: 80–120.
Nequinate	95–112	1.83 g/lb (0.4%)	80–120.
Niclosamide	85–20	225g/lb (49.5%)	80–120.
Nystatin	85–125	5.0 g/lb (1.1%)	75–125.
Oleandomycin	85–120	1.125 g/lb (0.25%)	<11.25 g/ton 70–130; >11.25 g/ton 75–125.
Oxytetracycline	90–120	20.0 g/lb (4.4%)	75–125/65–135.
Penicillin	80–120	10.0 g/lb (2.2%)	65–135.
Penicillin	80–120	1.5 g/lb (0.33%)	65–135.
Streptomycin	85–115	7.5 g/lb (1.65%)	70.130.
Poloxalene	90–110	54.48 g/lb (12.0%)	Liq. feed: 85–115.
Salinomycin	100–120	6.0 g/lb (1.3%)	80–120.
Tylosin	80–120	10.0 g/lb (2.2%)	75–125.
Virginiamycin	85–115	10.0 g/lb (2.2%)	70–130.
Zoalene	98–104	11.35 g/lb (2.5%)	85–115.

[1] Percent of labeled amount.

[2] Values given represent ranges for either Type B or Type C medicated feeds. For those drugs that have two range limits, the first set is for a Type B medicated feed and the second set is for a Type C medicated feed. These values (ranges) have been assigned in order to provide for the possibility of dilution of a Type B medicated feed with lower assay limits to make a Type C medicated feed.

CATEGORY II

Drug	Assay limits percent [1] type A	Type B maximum (100x)	Assay limits precent [1] type B/C [2]
Amprolium	94–114	11.35 g/lb (2.5%)	80–120.
Apramycin	88–112	7.5 g/lb (1.65%)	80–120.
Arsanilate sodium	90–110	4.5 g/lb (1.0%)	85–115/75–125.
Arsanilic acid	90–110	4.5 g/lb (1.0%)	85–115/75–125.
Butynorate	90–110	17.0 g/lb (3.74%)	85–115.
Butynorate	90–110	63.45 g/lb (14.0%)	85–115.
Piperazine	90–110	49.85 g/lb (11.0%)	85–115.
Phenothiazine	90–110	263.32 g/lb (58.0%)	85–115.
Carbadox	90–110	2.5 g/lb (0.55%)	75–125.
Carbarsone	93–102	17.0 g/lb (3.74%)	85–115.
Clopidol	94–106	11.4 g/lb (2.5%)	90–115/80–120.
Dimetridazole	96–103	9.1 g/lb (2.0%)	85–120.
Famphur	100–110	5.5 g/lb (1.21%)	90–115/80–120.
Furazolidone	95–105	10.0 g/lb (2.2%)	85–115.
Halofuginone hydrobromide.	80–120	272.0 g/ton (.03%)	70–125.
Hygromycin B	90–110	1,200 g/ton (0.13%)	75–125.
Ipronidazole	98–115	2.84 g/lb (0.63%) 0.00625%.	85–120/75–125; 85–120/80–120.
Levamisole	85–120	113.5 g/lb (25%)	85–125.
Lincomycin	90–115	10.0 g/lb (2.2%)	80–130.
Melengestrol acetate	90–110	2.0 g/ton (0.00022%)	70–120.
Morantel tartrate	90–110	66.0 g/lb (14.52%)	85–115.
Neomycin	80–120	7.0 g/lb (1.54%)	70–125.
Neomycin	80–120	7.0 g/lb (1.54%)	70–125.
Oxytetracycline	80–120	10.0 g/lb (2.2%)	65–135.
Nicarbazin	98–106	5.675 g/lb (1.25%)	85–115/80–120.
Nitarsone	90–110	8.5 g/lb (1.87%)	85–120.
Nitrofurazone	90–110	10.0 g/lb (2.2%)	80–125.
Nitromide	90–110	11.35 g/lb (2.5%)	80–120.
Sulfanitran	85–115	13.6 g/lb (3.0%)	75–125.
Nitromide	90–110	11.35 g/lb (2.5%)	85–115.
Sulfanitran	85–115	5.65 g/lb (1.24%)	75–125.
Roxarsone	95–103	2.275 g/lb (0.5%)	85–120.
Novobiocin	85–115	17.5 g/lb (3.85%)	80–120.
Phenothiazine	90–110	66.5 g/lb (14.6%)	85–115.
Piperazine	90–110	165 g/lb (40.25%)	85–115.
Pyrantel tartrate	90–110	4.8 g/lb (1.1%)	75–125.
Robenidine	95–115	1.5 g/lb (0.33%)	80–120.
Ronnel	85–115	27.2 g/lb (6.0%)	80–120.
Roxarsone	95–103	2.275 g/lb (0.5%)	85–120.
Roxarsone	95–103	2.275 g/lb (0.5%)	85–120.
Aklomide	90–110	11.35 g/lb (2.5%)	85–120.
Roxarsone	95–103	2.275 g/lb (0.5%)	85–120.
Clopidol	94–106	11.35 g/lb (2.5%)	80–120.
Bacitracin methylene disalicylate.	85–115	5.0 g/lb (1.1%)	70–130.
Roxarsone	95–103	2.275 g/lb (0.5%)	85–120.
Monensin	90–110	5.5 g/lb (1.2%)	75–125.
Sulfadimethoxine	95–115	5.675 g/lb (1.25%) 0.01% (combined).	85–115/75–125.
Ormetoprim (5/3)	95–115	3.405 g/lb (0.75%) 0.02% (combined).	85–115.
Sulfadimethoxine	95–115	85.1 g/lb (18.75%)	85–115/75–125.
Ormetoprim (5/1)	95–115	17.0 g/lb (3.75%)	85–115.
Sulfaethoxy pyridazine	95–105	50.0 g/lb (11.0%)	85–115.
Sulfamerazine	85–115	18.6 g/lb (4.0%)	85–115.
Sulfamethazine	85–115	10.0 g/lb (2.2%)	80–120.
Chlortetracycline	85–115	10.0 g/lb (2.2%)	85–125/70–130.
Penicillin	85–115	5.0 g/lb (1.1%)	85–125/70–130.
Sulfamethazine	85–115	10.0 g/lb (2.2%)	80–120.
Chlortetracycline	85–115	10.0 g/lb (2.2%)	85–125/70–130.
Sulfamethazine	85–115	10.0 g/lb (2.2%)	80–120.
Tylosin	80–120	10.0 g/lb (2.2%)	75–125.
Sulfanitran	85–115	13.6 g/lb (3.0%)	75–125.
Aklomide	90–110	11.2 g/lb (2.5%)	85–120.
Sulfanitran	85–115	13.6 g/lb (3.0%)	75–125.
Aklomide	90–110	11.2 g/lb (2.5%)	85–120.

CATEGORY II—Continued

Drug	Assay limits percent [1] type A	Type B maximum (100x)	Assay limits precent [1] type B/C [2]
Roxarsone	95–103	2.715 g/lb (0.60%)	85–120.
Sulfanitran	85–115	13.6 g/lb (3.0%)	75–125.
Aklomide	90–110	11.2 g/lb (2.5%)	85–120.
Roxarsone	95–103	2.27 g/lb (0.5%)	85–120.
Sulfaquinoxaline	98–106	11.2 g/lb (2.5%)	85–115.
Sulfathiazole	85–115	10.0 g/lb (2.2%)	80–120.
Chlortetracycline	85–125	10.0g/lb (2.2%)	70–130.
Penicillin	80–120	5.0 g/lb (1.1%)	70–130.
Thiabendazole	94–106	45.4 g/lb (10.0%)	<7% 85–115; >7% 90–110.

[1] Percent of labeled amount.
[2] Values given represent ranges for either Type B or Type C medicated feeds. For those drugs that have two range limits, the first set is for a Type B medicated feed and the second set is for a Type C medicated feed. These values (ranges) have been assigned in order to provide for the possibility of dilution of a Type B medicated feed with lower assay limits to make a Type C medicated feed.

§ 558.5 [Amended]

8. Section 558.5 is amended by revising the section heading to read *New animal drug requirements for liquid Type B feeds;* in paragraphs (a), (b), and (c) by revising "liquid feed supplement" and "liquid feed supplements" to read "liquid Type B medicated feeds"; in paragraph (b) by revising "supplement" to read "Type B feed"; and in paragraph (c)(2) by revising "Bureau of Veterinary Medicine" to read "Center for Veterinary Medicine."

§ 558.55 [Amended]

9. Section 558.55 *Amprolium* is amended in paragraph (d)(1)(i)(*b*) by revising "supplement" to read "Type B feed"; in paragraph (d)(2) in the introductory text by removing "in the complete feed"; in paragraph (d)(2) in the table in item (ii) in the fourth column under "Limitations" in the first and sixth entry by revising "in item (ii)" to read "in item (i)"; and in the introductory text of paragraph (d)(3) by removing "in complete feed".

§ 558.58 [Amended]

10. Section 558.58 *Amprolium and ethopabate* is amended in paragraph (a)(2) by revising "0.5" to read "0.05".

§ 558.76 [Amended]

11. Section 558.76 *Bacitracin methylene disalicylate* is amended in paragraph (a) by revising "25, 40, or 50 percent" to read "10, 25, 40, or 50 grams per pound".

§ 558.78 [Amended]

12. Section 558.78 *Bacitracin zinc* is amended in paragraph (d)(1) in the table in items (ii) and (v) in the fourth column under "Limitations" by revising "complete feed" to read "Type C feed".

§ 558.128 [Amended]

13. Section 558.128 *Chlortetracycline* is amended in paragraph (c)(3) by revising the title of Table I "In Complete Feed" to read "In Type C Feed" and in Table II by revising the title "In Feed Supplements" to read "In Type B Feed".

§ 548.145 [Amended]

14. Section 558.145 *Chlortetracycline, procaine penicillin, and sulfamethazine* is amended in paragraph (d)(1) by revising "a complete feed" to read "a Type C feed".

§ 558.155 [Amended]

15. Section 558.155 *Chlortetracycline, procaine penicillin, and sulfathiazole* is amended in paragraph (d)(3) in the title of the table by revising "Medicated Ration" to read "Type C Feed".

§ 558.175 [Amended]

16. Section 558.175 *Clopidol* is amended in the introductory text of paragraph (c) by removing "in complete feed for animals", and in paragraphs (c)(1)(ii) and (iii) and (4)(ii) by revising "3-nitro-4-hydroxyphenylarsonic acid" to read "roxarsone".

§ 558.185 [Amended]

17. Section 558.185 *Coumaphos* is amended in the introductory text of paragraph (d) by removing "in animal feeds"; in paragraphs (d)(1)(i)(*b*), (2)(iii), and (3)(iii) by revising "complete feed" to read "Type C feed" and "supplement" to read "Type B feed".

18. Section 558.195 is amended in paragraph (d)(2) in the table in the fourth column under "Limitations" by revising "complete feed" and "supplement" to read "Type C feed", by combining the tables in existing paragraphs (d)(1) and (2) in a single table under paragraph (d), by removing the introductory text of paragraph (d)(2), by revising paragraph (c), and by redesignating paragraph (d)(1) as paragraph (d) and revising it, to read as follows:

§ 558.195 Decoquinate.

* * * * *

(c) *Special considerations.* Bentonite should not be used in deconquinate feeds.

(d) *Conditions of use.* It is used as follows:

* * * * *

§ 558.205 [Amended]

19. Section 558.205 *Dichlorvos* is amended in paragraph (b)(3) by revising "feed supplements" and "supplements" to read "Type A articles and Type B feeds" and by removing paragraph (b)(4).

§ 558.240 [Amended]

20. Section 558.240 *Dimetridazole* is amended in the introductory text of paragraph (c) by removing "in the complete feed".

21. Section 558.248 is amended in paragraph (b) by revising "erythromcin" to read "erythromycin", by revising paragraph (a)(2), and by adding new paragraphs (a)(3), (4), and (5), to read as follows:

§ 558.248 Erythromycin thiocyanate.

(a) * * *

(2) 5 and 10 percent to 050604 for use in paragraphs (d)(1)(i) and (ii) of this section.

(3) 3.7 grams per pound to 000004 for use as in paragraphs (d)(1)(i) and (ii) of this section.

(4) 9.25 grams per pound to 000004 for use as in paragraph (d)(1)(v), item 3 of this section.

(5) 18.5 grams per pound to 000004 for use as in paragraph (d)(1)(v), item 1 of this section.

* * * * *

§ 558.274 [Amended]

22. Section 558.274 *Hygromycin B* is amended in the introductory text of paragraph (c)(1) by removing "in complete feed for animals".

23. Section 558.311 is amended by redesignating existing paragraphs (a), (b), (c), and (d) as paragraphs (b), (c), (d), and (e), respectively; by adding paragraph (a); by revising redesignated paragraph (e) in the table in item (3) in the fourth column under "Limitations" by changing the term "finished feed" to read "Type C feed"; and by revising redesignated paragraphs (b) and (d) and

the introductory text of paragraph (e) to read as follows:

§ 558.311 Lasalocid.

(a) *Specifications.* A minimum of 90 percent of lasalocid activity is derived from lasalocid A.

(b) *Approvals.* Type A medicated articles approved for sponsors identified in § 510.600(c) of this chapter for use as in paragraph (e) of this section as follows:

(1) 3.0, 3.3, 3.8, 4.0, 4.3, 4.4, 5.0, 5.1, 5.5, 5.7, 6.0, 6.3, 6.7, 7.2, 7.5, 8.0, 8.3, 10.0, 12.5, 15, 20, and 50 percent activity to 000004 for use as in paragraphs (e)(1), (2), (3), and (4) of this section.

(2) 15 percent activity to 000007 as provided by 000004 for use as in paragraph (e)(5) of this section.

(3) 15, 20, 33.1, and 50 percent activity to 000004 for use in cattle feeds as in paragraphs (e)(6), (7), and (9) of this section, and for use in sheep as in paragraph (e)(8) of this section.

* * * * *

(d) *Special considerations.* (1) Type C cattle and sheep feeds may be manufactured from lasalocid liquid Type B feeds which have a pH of 4.0 to 8.0 and bear appropriate mixing directions as follows:

(i) For liquid Type B feeds stored in recirculating tank systems: Recirculate immediately prior to use for no less than 10 minutes, moving not less than 1 percent of the tank contents per minute from the bottom of the tank to the top. Recirculate daily as described even when not used.

(ii) For liquid Type B feeds stored in mechanical, air, or other agitation-type tank systems: Agitate immediately prior to use for not less than 10 minutes, creating a turbulence at the bottom of the tank that is visible at the top. Agitate daily as described even when not used.

(2) A positionally stable lasalocid liquid Type B feed will not be subject to the requirements for mixing directions prescribed in paragraph (d)(1) of this section provided it has a pH of 4.0 to 8.0 and contains a suspending agent(s) sufficient to maintain a viscosity of not less than 300 centipoises per second for 3 months. Form FDA 1900 must indicate the pH and centipoises per second for such lasalocid liquid Type B feed.

(3) If a manufacturer is unable to meet the requirements of paragraph (d)(1) or (2) of this section, the manufacturer may secure approval of a positionally stable liquid Type B feed by (i) either filing a new animal drug application for the product or establishing a master file containing data to support the stability of its product; (ii) authorizing the agency to reference and rely upon the data in the master file to support approval of a supplemental new animal drug application to establish positional stability; and (iii) requesting the sponsor of an approved new animal drug application to file a supplement to provide for use of its lasalocid Type A article in the manufacture of the liquid Type B feed specified in the appropriate master file. If the data demonstrate the stability of the liquid Type B feed described in the master file, the supplement new animal drug application will be approved. Approval of the supplement will not be published in the **Federal Register** because such approval will not affect or alter conditions or use of the product in the new animal drug application or the regulation. The approval will, however, provide a basis for the individual liquid feed manufacturer to submit, and for the agency to approve, a medicated feed application under section 512(m) of the act for liquid Type B feed. A manufacturer who seeks to market a positionally unstable lasalocid liquid Type B feed with mixing directions different from the standard directions established in paragraph (d)(1) of this section may also follow this procedure.

(4) If adequate information is submitted to show that a particular liquid Type B feed containing lasalocid is stable outside the pH of 4.0 to 8.0, the pH restriction described in paragraphs (d)(1) and (2) of this section may be waived.

(5) Required label statements:

(i) For liquid Type B feed (cattle and sheep): Mix thoroughly with grain and/or roughage prior to feeding. Feeding undiluted, mixing errors, or inadequate mixing (recirculation or agitation) may result in an excess lasalocid concentration which could be fatal to cattle and sheep. Do not allow horses or other equines access to Type A articles or Type B feeds containing lasalocid as ingestion may be fatal. Safety of lasalocid for use in unapproved species or breeding animals has not been established.

(ii) For Type A articles or Type B feeds (cattle and sheep): Feeding undiluted or mixing errors may result in an excess lasalocid concentration which could be fatal to cattle and sheep. Do not allow horses or other equines access to Type A articles or Type B feeds containing lasalocid as ingestion may be fatal. Safety of lasalocid for use in unapproved species or breeding animals has not been established.

(6) Lasalocid Type A medicated articles containing lasalocid dried fermentation residue are for use in cattle and sheep feed only.

(e) *Conditions of use.* It is used as follows:

* * * * *

24. Section 558.325 is amended in paragraphs (c)(3)(i) and (ix) by revising "3-nitro-4-hydroxyphenylarsonic acid" to read "roxarsone" and by revising the introductory texts of paragraphs (c)(1) and (2) to read as follows:

§ 558.325 Lincomycin.

* * * * *

(c) *Conditions of use.*—(1) *Broilers:*

* * * * *

(2) *Swine:*

* * * * *

§ 558.342 [Amended]

25. Section 558.342 *Melengestrol acetate* is amended in paragraph (a) by revising "premix" to read "Type A article", in the introductory text of paragraph (c) by removing "in or on finished feed", and in paragraphs (c)(1)(ii) and (2)(ii) by revising "feed supplement" and "supplement" to read "Type B feed".

26. Section 558.355 is amended in paragraphs (b)(3) and (f)(1)(ii), (x), (x)(*b*), (xi), and (xi)(*b*) by revising "3-nitro-4-hydroxyphenylarsonic acid" to read "roxarsone"; in paragraph (c) by revising "Liquid feed supplements" to read "liquid Type B feeds"; in paragraphs (d)(1) and (2) by revising "Finished" to read "Type C"; in paragraphs (d)(5) and (7) by revising "feed supplements" to read "Type B feeds"; in paragraphs (d)(7) and (9) by revising "premixes" to read "Type A articles"; in paragraphs (f)(1)(vi), (vii), and (xvii) by revising "§ 558.95(e)(1)(vi)", "§ 558.95(e)(1)(vii)", and "§ 558.95(e)(1)(xiii)" to read "§ 558.95(b)(1)(vi)", "§ 558.95(b)(1)(vii)", and "§ 558.95(b)(1)(xiii)", respectively; by revising paragraph (f)(3)(i)(*b*)(*1*) and (*2*) and (iv)(*b*) by revising "feed supplement", "feed supplements", "supplement", and "supplements" to read "Type B feed" or "Type B feeds"; in paragraph (f)(3)(i)(*b*)(*2*) by revising "premix" to read "Type A article", and by removing the word "[Reserved]" from paragraph (a) and adding a new paragraph (a) to read as follows:

§ 558.355 Monensin.

(a) *Specifications.* Monensin is present as monensin or the sodium salt. A minimum of 90 percent of monensin activity is derived from monensin A.

* * * * *

§ 558.365 [Amended]

26a. Section 558.365 *Nequinate* is amended in paragraph (d)(1)(ii) by revising "3-nitro-4-

hydroxyphenylarsonic acid" to read "roxarsone".

§ 558.369 [Amended]

27. Section 558.369 *Nitarsone* is amended in the introductory text of paragraph (d) by removing "in the complete feed".

§ 558.370 [Amended]

28. Section 558.370 *Nitrofurazone* is amended in the introductory text of paragraph (b) by removing "in the complete feed".

§ 558.376 [Amended]

29. Section 558.376 *Nitromide and sulfanitran* is amended in the introductory text of paragraph (c) by removing "in the complete feed" and in paragraphs (c)(1)(ii) and (2)(ii) by revising "premixes" to read "Type A articles".

§ 558.430 [Amended]

30. Section 558.430 *Nystatin* is amended in the introductory text of paragraph (c) by removing "in the complete feed".

31. Section 558.435 is amended by revising paragraph (c) to read as follows:

§ 558.435 Oleandomycin.

* * * * *

(c) *Special considerations.* Do not use bentonite in Type B or Type C medicated feeds containing oleandomycin. Oleandomycin refers to oleandomycin or feed-grade oleandomycin.

§ 558.450 [Amended]

32. Section 558.450 *Oxytetracycline* is amended in paragraph (b) by revising "amount of oxytetracycline" to read "amount of mono-alkyl (C_8–C_{18}) trimethylammonium oxytetracycline" and in paragraph (d)(1) in Table 1 in the title by removing the word "complete".

§ 558.460 [Amended]

33. Section 558.460 *Penicillin* is amended in the introductory text of paragraph (c)(1) by removing "in the complete feed for animals".

34. Section 558.464 is amended in paragraph (b)(2) by revising "premix" to read "Type A article" and by revising the second sentence to read as follows:

§ 558.464 Poloxalene.

(b) * * *

(2) * * * This may be accomplished by adding the Type A article to a small quantity of feed, mixing thoroughly, then adding this mixture to the remaining feed and again mixing thoroughly. * * *

§ 558.465 [Amended]

35. Section 558.465 is amended by revising the section heading to read *Poloxalene free-choice liquid Type C feed,* in paragraphs (b) (1), (2), (3), and (4) by revising "feed supplement" and "supplement" to read "Type C feed", and in paragraph (b)(3) by revising "premix" to read "Type A article".

§ 558.485 [Amended]

36. Section 558.485 *Pyrantel tartrate* is amended in paragraphs (e) (1)(ii), (2)(ii), (3)(ii), and 4(ii) by revising "complete feed" to read "Type C feed", in paragraph (e)(3)(ii) by revising "As a single therapeutic treatment" to read "As sole ration for a single therapeutic treatment", and in paragraphs (e) (10)(ii) and (11)(ii) by revising "(f)(2) (i), (ii), or (iii)" to read "(c)(2) (i), (ii), or (iii)".

§ 558.515 [Amended]

37. Section 558.515 *Robenidine hydrochloride* is amended in paragraph (b) by revising "Finished feed" to read "Type C feed", and in paragraph (d)(1)(ii) by removing "(3-nitro-4-hydroxyphenylarsonic acid)".

§ 558.525 [Amended]

38. Section 558.525 *Ronnel* is amended in paragraphs (b)(1) and (2)(ii) by revising "medicated concentrate" and "medicated feed concentrate" to read "Type B feed"; in paragraph (b)(2)(i) by revising "feed additive supplements" and "supplements" to read "Type B feeds"; and in paragraphs (d) (1)(ii), (2)(ii), (3)(ii), (4)(ii), and (5)(ii) by revising "feed supplement" and "mineral supplement" to read "Type B feed" and "mineral Type B feed", respectively.

§ 558.526 [Amended]

39. Section 558.526 is amended by revising the section heading to read *Ronnel liquid Type B feed,* in paragraph (a) by revising "liquid premix" and "liquid feed supplement" to read "liquid Type A article" and "liquid Type B feed", respectively, by removing paragraph (b) and marking it reserved, and in paragraphs (d) (1) and (2) by revising "liquid feed supplement" to read "liquid Type B feed".

§ 558.530 [Amended]

40. Section 558.530 *Roxarsone* is amended in paragraphs (d)(1)(iii) and (2)(i)(*b*) by removing "as a complete feed".

41. Section 558.575 is amended in paragraph (c)(1)(ii) by revising "3-nitro-4-hydroxyphenylarsonic acid" to read "roxarsone" and by revising paragraph (a) to read as follows:

§ 558.575 Sulfadimethoxine, ormetoprim.

(a) *Approvals.* Type A medicated articles to sponsors as identified in § 510.600(c) of this chapter for uses as in paragraph (c) of this section as follows:

(1) 25 percent sulfadimethoxine and 15 percent ormetoprim to 000004 for use for poultry as in paragraphs (c)(1), (2), (3), and (4) of this section.

(2) 25 percent sulfadimethoxine and 5 percent ormetoprim to 000004 for use for fish as in paragraphs (c)(5) and (6) of this section.

* * * * *

§ 558.579 [Amended]

42. Section 558.579 *Sulfaethoxypyridazine* is amended in paragraph (c)(1)(iii) by removing "in complete feed".

§ 558.586 [Amended]

43. Section 558.586 *Sulfaquinoxoline* is amended by removing paragraph (e)(2) and marking it "[Reserved]" and in paragraph (f) by removing "in complete feed" wherever it appears.

§ 558.615 [Amended]

44. Section 558.615 *Thiabendazole* is amended in paragraph (a) by revising "liquid Type C medicated feed article" to read "liquid Type B feed", in paragraph (b) by revising "foods" to read "feed", and in paragraph (d)(5)(iii) by removing "In complete feed."

§ 558.635 [Amended]

45. Section 558.635 *Virginiamycin* is amended in paragraph (e)(2) by revising "premix" to read "Type A article" and by revising "complete feed" to read "Type C feed" and in the introductory texts of paragraphs (f)(1) and (2) by removing the phrase "in complete feeds".

46. Section 558.680 is amended in paragraph (c)(1) in the table in the fourth column under "Limitations" under entry (i) by removing the phrase "In complete feed only;" wherever it appears and by revising the introductory text of paragraph (c)(1) to read as follows:

§ 558.680 Zoalene.

* * * * *

(c) *Conditions of use*—(1) *Chickens and turkeys:*

* * * * *

Dated: January 15, 1987.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 87–1409 Filed 1–23–87; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Bacitracin Zinc and Carbarsone

AGENCY: Food and Drug Administration.

ACTION: Final Rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by International Minerals & Chemical Corp. providing for safe and effective use of approved bacitracin zinc and carbarsone Type A articles to manufacture Type C turkey feeds used as an aid in the prevention of blackhead, increased rate of weight gain, and improved feed efficiency for growing turkeys.

EFFECTIVE DATE: January 26, 1987.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV-128), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4317.

SUPPLEMENTARY INFORMATION: International Minerals & Chemical Corp., P.O. Box 207, Terre Haute, IN 47808, filed NADA 136-484 providing for the combination of separately approved 10, 25, 40, or 50 grams per pound Baciferm (bacitracin zinc) and 37.5 percent Carb-O-Sep (carbasone) Type A articles in manufacturing Type C feeds for growing turkeys. The feeds will contain 4 to 45 grams of bacitracin zinc per ton and 227 top 340.5 grams of carbarsone per ton (0.025 to 0.0375 percent carbarsone). The feeds are indicated as an aid in prevention of blackhead, increased rate of weight gain, and improved feed efficiency. The NADA is approved and 21 CFR 558.78 and 558.120 are amended accordingly. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(ii) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR Part 558 continues to read as follows:

AUTHORITY: Sec. 512, 82 Stat. 343-351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

2. Section 558.78 is amended by adding new paragraph (d)(3)(xi) to read as follows:

§ 558.78 Bacitracin zinc.

* * * * *

(d) * * *

(3) * * *

(xi) Carbarsone as in § 558.120.

3. Section 558.120 is amended by adding new paragraph (c)(1)(iii) to read as follows:

§ 558.120 Carbarsone (not U.S.P.).

* * * * *

(c) * * *

(1) * * *

(iii) *Grams per ton.* 227 to 340.5 (0.025 to 0.0375 percent) carbarsone plus 4 to 45 grams per ton bacitracin from bacitracin zinc.

(*a*) *Indications for use.* As an aid in the prevention of blackhead, increased rate of weight gain, and improved feed efficiency.

(*b*) *Limitations.* Feed continuously as sole ration. Withdraw 5 days before slaughter. As sole source of organic arsenic; as bacitracin zinc provided by No. 012769 in § 510.600(c) of this chapter.

Dated: January 16, 1987.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 87-1591 Filed 1-23-87; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 3

[CGD 86-056]

Changes to Marine Inspection Zones and Captain of the Port Zones, St. Louis, MO; Paducah, KY; Louisville, KY; Memphis, TN; and Nashville, TN

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule deletes the Marine Inspection and Captain of the Port Zones for Nashville, Tennessee, and expands the zones for Louisville, Kentucky and Paducah, Kentucky, to cover the area formerly covered by Nashville. This change is required to accommodate a change in Coast Guard organization, replacing the Marine Safety Office (MSO) in Nashville with a Marine Safety Detachment (MSD). The Marine Inspection and Captain of the Port Zones for St. Louis, Missouri and Memphis, Tennessee are being changed and a further minor change is being made to MSO Paducah's boundaries to provide more efficient coverage of their respective geographical areas where the three zones meet. This reorganization is necessary to increase the overall efficiency, quality, and effectiveness of Coast Guard marine safety functions.

EFFECTIVE DATE: January 26, 1987.

FOR FURTHER INFORMATION CONTACT: Mrs. Janice C. Jackson, Project Manager, Office of Marine Safety, Security and Environmental Protection, telephone (202) 267-0389. Normal working hours are between 7:00 a.m. and 3:30 p.m. Monday through Friday, except holidays.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was not prepared for this regulation. These amendments are matters relating to agency organization and are exempt from the notice of proposed rulemaking requirements in 5 U.S.C. 553(b). Since this rule has no substantive effect, good cause exists to make it effective in less than 30 days after publication, under 5 U.S.C. 553(d). The rulemaking merely changes Marine Inspection and Captain of the Port Zone boundaries to conform with changes in internal organization. There will be no effect on the public, since the MSD in Nashville will perform the marine safety functions formerly performed by the MSO and the

functions of the MSOs at St. Louis and Memphis are not being changed.

Drafting Information: The drafters of this notice are CDR T.B. Rodino, USCG, Commander (mpb), Second Coast Guard District, project officer, and LT R.E. Kilroy, USCG, project attorney, Second Coast Guard District Legal Office.

Discussion of Regulation: Marine Safety Offices perform the functions delegated to the Coast Guard Captain of the Port and the Officer in Charge, Marine Inspection, within zones designated in 33 CFR Part 3. The Coast Guard has conducted an evaluation of the distribution of Marine Safety Offices in the Second Coast Guard District. This evaluation takes into account many factors, including personnel considerations, workload, and commercial activity on the Western Rivers. In Nashville, Tennessee, the workload does not warrant a full-time or full-scale Marine Safety Office (MSO). The MSO will be replaced by a Marine Safety Detachment (MSD). The MSD will be under the Commanding Officer of the Marine Safety Office in Paducah, Kentucky. Captain of the Port and Marine Inspection functions within the former MSO Nashville Zone will continue to be performed by personnel working out of MSD Nashville. The change will not affect the public.

This reorganization will improve the use of manpower by redistributing the excess command overhead to satisfy workload shortages elsewhere. The Commandant of the Coast Guard has concluded that the disestablishment of the Marine Safety Office at Nashville, Tennessee, and the redesignation of the Nashville unit as a Marine Safety Detachment is necessary for improved overall efficiency and effectiveness in carrying out Coast Guard marine safety functions.

The study described above has also indicated that the existing respective coverages of MSO Paducah and two other Second Coast Guard District Marine Inspection and Captain of the Port Zones, specifically, St. Louis and Memphis, result in some loss of efficiency within the internal Coast Guard organization. The affected area is the upper and lower Mississippi River at the confluence with the Ohio River where the three MSO zones come together. The changes allow the MSO zone boundaries to match the corresponding Coast Guard Group boundaries in that area. Accordingly, the geographic descriptions of these zones are also being changed.

Regulatory Evaluation: This final rule is exempt from the provisions of Executive Order 12291 since it pertains to matters of agency organization as provided in section 1(a)(3) of the Order. It is considered to be nonsignificant under DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this final rule has been found to be so minimal that further evaluation is unnecessary. Coast Guard marine safety activities in the area will not be affected by this rulemaking. The Marine Safety Detachment at Nashville, Tennessee will carry out the functions previously performed by the Marine Safety Office in Nashville, Tennessee.

The functions of the Marine Safety Offices in St. Louis, Missouri and Memphis, Tennessee are not being changed in any way. The only changes are minor adjustments to their respective geographical areas of responsibility.

Since the impact of this final rule is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 3

Marine safety, Organization and functions (Government agencies)

Final Regulation

In consideration of the foregoing, Part 3, Chapter I of Title 33, Code of Federal Regulations, is amended as follows:

PART 3—[AMENDED]

1. The authority citation for Part 3 continues to read as follows:

Authority: 14 U.S.C. 633; 49 CFR 1.45, 1.46.

2. Section 3.10–10 is revised to read as follows:

§ 3.10–10 St. Louis Marine Inspection Zone and Captain of the Port Zone.

(a) The St. Louis Marine Inspection Office and the St. Louis Captain of the Port Office are located in St. Louis, Missouri.

(b) The St. Louis Marine Inspection Zone and the St. Louis Captain of the Port Zone are comprised of Wyoming; Colorado; North Dakota; South Dakota; Kansas; Nebraska; in Arkansas: Boone, Marion, Baxter, and Fulton Counties; all of Missouri except for Scott, Stoddard, Mississippi, New Madrid, Dunklin, and Pemiscot Counties, and those parts of Cape Girardeau and Bollinger Counties south of a line drawn from the southeast corner of Madison County eastward to the point of intersection of the upper Mississippi River (Mile 55.3) and Union and Alexander Counties (in Illinois); all of Iowa; that part of Minnesota south of 46° 20′ N. latitude; that part of Wisconsin south of 46° 20′ N. latitude and west of 90° W. longitude; that part of Illinois north of Alexander, Pulaski, and Johnson Counties, and west of Johnson, Saline, Hamilton, Wayne, Clay, Jasper, Cumberland, Coles, Douglas, Champaign, and Ford Counties and south of 41° N. latitude, and that part of Illinois west of 90° W. longitude and north of 41° N. latitude.

3. Section 3.10–15 is revised to read as follows:

§ 3.10–15 Paducah Marine Inspection Zone and Captain of the Port Zone.

(a) The Paducah Marine Inspection Office and the Paducah Captain of the Port Office are located in Paducah, Kentucky.

(b) The Paducah Marine Inspection Zone and the Paducah Captain of the Port Zone are comprised of: In Missouri: Stoddard, Mississippi and Scott Counties, and those parts of Cape Girardeau and Bollinger Counties south of a line drawn eastward from the southeast corner of Madison County to the point of intersection of the upper Mississippi River (Mile 55.3) and Union and Alexander Counties, and those parts of Dunklin and New Madrid Counties north of a line drawn eastward from the southeast corner of Butler County to the westernmost point of intersection of the Missouri, Kentucky and Tennessee border at the lower Mississippi River (Mile 882.7), and all that part of New Madrid County, and all waters of the Mississippi River which border any part of New Madrid County, lying east of 89° 30′ W. longitude (including the area known as Winchester Towhead). In Illinois: Johnson, Pope, Hardin, Alexander, Pulaski, and Massac Counties. In Kentucky: Fulton, Hickman, Carlisle, Ballard, McCracken, Graves, Calloway, Marshall, Livingston, Lyon, Trigg, Crittenden, Caldwell, and Christian Counties, and that part of Union County south of a line drawn from the point of intersection of Gallatin and Hardin Counties (in Illinois) and the Ohio River to the point of intersection of Union, Webster and Henderson Counties; all of Tennessee except for Dyer, Crockett, Lauderdale, Tipton, Haywood, Shelby, Fayette, Hardeman and Lake Counties; that part of Alabama north of 34° N. latitude, and in Mississippi: Alcorn, Prentiss, and Tishomingo Counties except for that portion of the Tennessee-Tombigbee Waterway south of the Bay Springs Lock and Dam.

4. Section 3.10–35 is revised to read as follows:

§ 3.10–35 Louisville Marine Inspection Zone and Captain of the Port Zone.

(a) The Louisville Marine Inspection Office and the Louisville Captain of the Port Office are located in Louisville, Kentucky.

(b) The Louisville Marine Inspection Zone and the Louisville Captain of the

Port Zone are comprised of: that part of Indiana south of 41° N. latitude; that part of Ohio south of 41° N. latitude and west of Ashland, Knox, Licking, Fairfield, Pickaway, Ross, Pike, and Scioto Counties; that part of Illinois north of Pope and Hardin Counties, east of Williamson, Franklin, Jefferson, Marion, Fayette, Effingham, Shelby, Moultrie, Piatt, McLean, and Livingston Counties, and south of 41° N. latitude; and in Kentucky: Todd, Logan, Simpson, Allen, Warren, Barren, Metcalfe, Muhlenberg, Butler, Edmonson, Hart, Green, Taylor, Adair, Casey, Lincoln, Webster, Hopkins, McLean, Ohio, Grayson, Henderson, Daviess, Hancock, Breckinridge, Meade, Hardin, Larue, Nelson, Washington, Marion, Anderson, Mercer, Boyle, Woodford, Jessamine, Garrard, Fayette, Clark, Madison, Estill, Powell, Lee, Bullitt, Spencer, Jefferson, Shelby, Franklin, Scott, Oldham, Henry, Owen, Trimble, Carroll, Montgomery, Bath, Rowan, Bourbon, Nicholas, Fleming, Harrison, Robertson, Mason, Grant, Pendleton, Bracken, Gallatin, Boone, Kenton, Campbell, Monroe, Cumberland, Russell, Clinton, Wayne, Pulaski, McCreary, Rock Castle, Whitley, Jackson, Laurel, Knox, Clay, Bell, Leslie and Harlan Counties, that part of Lewis County south and west of a line drawn from the point of intersection of Scioto and Adams Counties (in Ohio) and the Ohio River to the point of intersection of Carter, Greenup, and Lewis Counties (in Kentucky), and that part of Union County north of a line drawn from the point of intersection of Gallatin and Hardin Counties (in Illinois) and the Ohio River to the point of intersection of Union, Webster, and Henderson Counties (in Kentucky).

5. Section 3.10–40 is revised to read as follows:

§ 3.10–40 Memphis Marine Inspection Zone and Captain of the Port Zone.

(a) The Memphis Marine Inspection Office and the Memphis Captain of the Port Office are located in Memphis, Tennessee.

(b) The Memphis Marine Inspection Zone and the Memphis Captain of the Port Zone are comprised of: Oklahoma; all of Arkansas except for Boone, Marion, Baxter, and Fulton Counties; in Tennessee: Shelby, Fayette, Hardeman, Tipton, Haywood, Lauderdale, Crockett, and Dyer Counties, and all of Lake County, with the exception of the portion of the Mississippi River which borders that part of New Madrid County, Missouri, lying east of 89° 30′ W. longitude (including the area known as Winchester Towhead); in Missouri: Pemiscot County, and those portions of Dunklin and New Madrid Counties south of a line drawn eastward from the southeast corner of Butler County to the westernmost point of intersection of the Missouri, Kentucky, and Tennessee borders at the lower Mississippi River (Mile 882.7). In Mississippi: DeSoto, Marshall, Benton, Tippah, Tunica, Tate, Coahoma, Quitman, Panola, Lafayette, Union, Pontotoc, Lee, Bolivar, Washington, Sunflower, Tallahatchie, Leflore, Yalobusha, Grenada, Calhoun and Chickasaw Counties.

§ 3.10–45 [Removed]

6. Section 3.10–45 is removed.

Dated: January 15, 1987.

J. W. Kime,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 87–1679 Filed 1–23–87; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[CCGD7–86–06]

Safety Zone Regulations; Tampa Bay and Approaches

AGENCY: Coast Guard DOT.

ACTION: Final Rule.

SUMMARY: The Coast Guard is establishing local regulations governing the movement of vessels carrying liquefied petroleum gas in heavily populated areas of Tampa Bay and its approaches and while vessels are moored at the receiving facility. In view of the hazards associated with liquefied petroleum gas the Coast Guard deems it necessary to establish marine safety zones surrounding these vessels in certain prescribed areas and under certain conditions.

EFFECTIVE DATE: February 25, 1987.

FOR FURTHER INFORMATION CONTACT: LTJG Harry Craig, Telephone (305) 350–5651.

SUPPLEMENTARY INFORMATION: On 12 June 1986 the Coast Guard published a notice of proposed rule making in the **Federal Register** for these regulations (Vol. 51 No. 113/ FR 21387). Interested persons were requested to submit comments and 5 comments were received. The notice of proposed rulemaking published these regulations under part 165.703 of 33 CFR. The Final Rule willl be promulgated under part 165.704 of 33 CFR.

Drafting Information

The drafters of these regulations are LT James McDowell, project officer, Coast Guard Marine Safety Office Tampa, and CDR Kenneth E. Gray, project attorney, Seventh Coast Guard District Legal Office.

Discussion of Comments

Five comments were received requesting a reduction of the floating safety zone outlined in § 165.703 (a) and (b). Commentators universally requested that the safety zone be reduced to 500 yards fore and aft of the vessel vice the 1000 yards delineated in the proposed rule. Commenters indicated that most vessels operating in the safety zone area are smaller pleasure craft and do not routinely monitor chennel 16 VHF–FM. Therefore, a zone of 500 yards fore and aft would generally fall within the range of a power megaphone which would permit the towing vessel to warn vessels of the approaching floating safety zone. We concur with these comments and have incorporated the 500 yard standard into §§ 165.703 (a) and (b).

Three comments were received recommending changing § 165.703 (a) by allowing other vessels to pass the LPG tow in meeting situations while in the safety zone. A proposed 50 foot passing distance would be maintained during these conditions. Overtaking of the LPG tow would be prohibited. The Coast Guard does not concur with these recommendations. Adequate prior notification will be given to the port community regarding the implementation of the LPG Safety Zone. The nominal (1) hour transit time of the LPG tow in the safety zone would require minimal changes for any conflicting vessel movements. This relatively short time period does not warrant the inherent risks associated with vessels meeting within the confines of the navigational channel.

Further, an evaluation of the marine users in this area indicates that only a minimal number of ships which are constrained to the channels noted would be impacted by implementation of the safety zone.

Five comments were made requesting clarification of the 150 foot safety zone established in § 165.703(b) while the LPG vessel is maneuvering for mooring in Rattlesnake slip. The comments addressed a need for exempting other moored vessels in Rattlesnake slip from the 150 foot safety zone. We concur with this recommendation and have delineated this exemption in § 165.703(b).

Two commenters expressed a need for clarification of the 150 foot floating zone outlined in § 165.703(b) to not include any land areas. The Coast Guard feels that the current language

indicating the safety zone is 150 feet fore and aft of the vessel and the width of the slip adequately defines the floating safety zone and eliminates any land areas.

Five commenters requested reducing the 100 foot fixed zone outlined in §165.703(d). All commenters suggested a 50 foot fixed zone. They felt this reduction was necessary to assure passage within Rattlesnake slip when other vessels were moored directly across from the LPG barge. The Coast Guard concurs with this proposal and has changed § 165.703(d) to reflect a 50 foot fixed safety zone.

Three commenters requested downgrading the three mile visibility requirement for transit outlined in § 165.703(k). A reduction to one mile visibility was tendered. The Coast Guard does not concur with this recommendation. Local Port Community Members have promulgated guidelines for transit within Tampa Bay and have delineated that at least two sets of channel buoys be visible during periods of restricted visibility. This recommendation places the required visibility at approximately three miles.

Two comments were received requesting an extension of the ½ hour time window of actual entry into the safety zone as noted in § 165.705(i). Commentors felt that a variance of one hour would be appropriate. The Coast Guard does not concur with this proposal. The interests of other conflicting vessel traffic must be considered as excessive delays in completing the safety zone passage could adversely affect other vessels operations. A review and assessment of past regulated cargo movements does not indicate any unusual problems with vessels meeting the ½ hour window requirement.

One commenter expressed a need to change the definition of LPG as outlined in the discussion of proposed regulations. The commenter's recommendation appeared to be more a matter of semantics than any appreciable differing in substance and the Coast Guard does not agree. The definition outlined in the proposed regulation's discussion was extracted directly from the Chemical Hazard Response Information System Publication.

Economic Assessment and Certification

Those proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation Regulatory policies and procedures (44 FR 11034), February 26, 1979. The economic impact of this proposal has been found to be so minimal that a full regulatory evaluation is unnecessary. LPG carriers have been transiting Tampa Bay for a number of years. The proposed regulations have been followed on a case by case basis in the form of Captain of the Port Orders since September 1985. These Orders have prescribed conditions for operations similar to those contained in the Notice of Proposed Rulemaking. By establishing a permanent rule, the Coast Guard will achieve economies in manpower and administrative time, provide the Port of Tampa with the widest dissemination of these precautionary measures, and minimize the potential dangers of these movements to the port community.

The advance arrival notice requirement is intended to permit non-regulated vessel and facility operators the opportunity to more economically schedule their operations. The time constraint placed on the LPG vessel for its entrance to the safety zone is intended to allow non-regulated vessel operators to more efficiently schedule their movements and not be penalized by last minute changes by LPG vessels.

The fixed safety zone requires that vessels desiring to pass within 50 feet of a moored LPG vessel must first obtain permission from the Captain of the Port Tampa. This is not expected to be restrictive. Rattlesnake slip has a channel width of approximately 310 feet. The average LPG barge beam calling at Warren Petroleum is 50 feet wide. A 50 foot fixed safety zone allows 210 feet of unrestricted channel for vessels to pass.

Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 165

Harbours, Marine safety, Navigation (water), Security Measures, Vessels, Waterways.

Final Regulation

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 USC 1225 and 1231; 50 USC 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5.

2. Section 165.704 is added to read as follows:

§ 165.704 Tampa Bay, Florida, Safety Zone.

(a) A floating safety zone is established consisting of an area 500 yards fore and aft of a loaded liquefied petroleum gas (LPG) vessel and the width of Tampa Bay Cut "J" channel from buoy "10J" (LLNR 1589) north and including Tampa Bay Cut "K" Channel to buoy "11K" (LLP 117). Vessels are not permitted to meet or pass the loaded LPG vessel when it transits these channels.

(b) When a loaded LPG vessel departs the marked channel at Tampa Bay Cut "K" buoy "11K" (LLP 117) enroute to Rattlesnake slip, Tampa, FL. the floating safety zone extends 500 yards in all directions surrounding the loaded LPG vessel, until it arrives at the entrance to Rattlesnake slip. While the loaded LPG vessel is maneuvering in the slip and until it is safely moored at Warren Petroleum, Rattlesnake slip the floating safety zone extends 150 feet fore and aft of the loaded LPG vessel and the width of the slip. Moored vessels are allowed within the parameters of the 150 foot safety zone.

(c) The floating safety zone is disestablished when the LPG vessel is safely moored at the LPG receiving facility at Warren Petroleum, Rattlesnake slip.

(d) A fixed safety zone is established when an LPG vessel is safely moored at Warren Petroleum, extending 50 feet waterside from the vessel. Vessels are permitted to pass the moored LPG vessel; so long as they do not enter the fixed safety zone, and proceed only with extreme caution at the slowest safe speed possible. Vessels may not enter the fixed safety zone without the permission of the Captain of the Port Tampa.

(e) For an outbound vessel loaded with LPG, the floating safety zone is established when the vessel departs from the receiving facility and continues through the areas described in (a) and (b) above.

(f) The general regulations governing safety zones contained in 33 CFR 165.23 apply.

(g) The Marine Safety Office Tampa will notify the maritime community of periods during which these safety zones will be in effect by providing advance notice of scheduled arrivals and departures of loaded LPG vessels via a marine broadcast Notice to Mariners.

(h) The owner, master, agent or person in charge of a vessel or barge, loaded with LPG shall report the following information to the Captain of the Port, Tampa at least twenty-four

hours before entering Tampa Bay or its approaches:

(1) Name and country of registry of the vessel or barge;

(2) The name of the port or place of departure;

(3) The name of the port or place of destination;

(4) The estimated time that the vessel is expected to begin its transit of Tampa Bay and the time it is expected to commence its transit of the safety zone.

(5) The cargo carried and amount.

(i) Should the actual time of entry of the LPG vessel into the safety zone area vary more than one half (½) hour from the scheduled time stated in the broadcast Notice to Mariners, the person directing the movement of the LPG vessel shall obtain permission from the Captain of the Port Tampa before commencing the transit.

(j) Prior to commencing the movement, the person directing the movement of the LPG vessel shall make a security broadcast to advise mariners of the intended transit. All additional security broadcasts as recommended by the U.S. Coast Pilot 5 Atlantic Coast shall be made throughout the transit.

(k) Vessels carrying LPG are permitted to enter and transit Tampa Bay and approaches only with a minimum of three miles visibility.

(l) The Captain of the Port Tampa may waive any of the requirements of this support for any vessel or class of vessel upon finding that the operational conditions of a vessel or class of vessels, or other circumstances are such that application of this subpart is unnecessary or impractical for the purposes of port safety or environmental safety.

Dated: January 9, 1987.

T.W. Boerger,

Captain, U.S. Coast Guard, Captain of the Port.

[FR Doc. 87-1680 Filed 1-23-87; 8:45 am]

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DEPARTMENT OF EDUCATION

34 CFR Part 755

Secretary's Discretionary Program for Mathematics, Science, Computer Learning, and Critical Foreign Languages

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary of Education issues regulations for the Secretary's Discretionary Program for Mathematics, Science, Computer Learning, and Critical Foreign Languages. These regulations amend current program regulations by implementing the technical amendments contained in the National Science, Engineering, and Mathematics Authorization Act of 1986, Pub. L. 99-159, and by establishing procedures for the funding of unsolicited proposals. The intended effect of these regulations is to enhance the capacity of the program to accomplish the objectives of the Act by providing the Secretary with a wider range of possible responses to promising ideas and proposals for the improvement of teaching and instruction in mathematics, science, computer learning, and critical foreign languages.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments, with the exception of §§ 755.32 and 755.33. Sections 755.32 and 755.33 will become effective after the information collection requirements contained in those sections have been submitted by the Department of Education and approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Patricia Alexander, Secretary's Discretionary Fund, U.S. Department of Education, 400 Maryland Avenue, SW., Room 1011, Washington, DC 20202, (202) 732-3599.

SUPPLEMENTARY INFORMATION: On November 22, 1985, the President signed into law the National Science, Engineering, and Mathematics Authorization Act of 1986, making certain technical amendments to Title II of the Education for Economic Security Act (EESA), Pub. L. 98-377. Specifically, section 212(a) of the EESA, which authorizes the Secretary's Discretionary Program for Mathematics, Science, Computer Learning, and Critical Foreign Languages, was amended to allow the Secretary to carry out projects in these four areas directly or through cooperative agreements.

Current regulations apply solely to the awarding of grants under this program. These regulations amend current regulations so that they also apply to the awarding of cooperative agreements. The provision indicating that these regulations do not apply to contracts has been amended to indicate that these regulations also do not apply to projects carried out directly by the Secretary.

These regulations also establish procedures for funding any unsolicited project in any area of education within the purpose of section 212 of the EESA. These procedures support the statutorily broad discretion of the Secretary to exercise leadership in education by focusing national attention on national needs, and enable the Secretary to support a wider range of innovative and promising ideas to improve the quality of teaching and instruction in mathematics, science, computer learning, and critical foreign languages.

On September 30, 1986, the Secretary published a Notice of Proposed Rulemaking (NPRM) for the Secretary's Discretionary Program for Mathematics, Science, Computer Learning, and Critical Foreign Languages in the **Federal Register** (51 FR 34662). During the 30-day public comment period, no comments were received. There are only technical differences between the NPRM and these final regulations.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the Order.

Paperwork Reduction Act of 1980

Information collection requirements contained in §§ 755.32 and 755.33 of these regulations will be sent to the Office of Management and Budget (OMB) for review, as required by section 3504(h) of the Paperwork Reduction Act of 1980, and will become effective after they have been approved by OMB.

Assessment of Educational Impact

In the NPRM the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 755

Education, Grants program—Education, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Number 84.168, Secretary's Discretionary Program for Mathematics, Science, Computer Learning, and Critical Foreign Languages.)

Dated: January 21, 1987.

William J. Bennett,

Secretary of Education.

The Secretary amends Title 34 of the Code of Federal Regulations by revising Part 755 to read as follows:

PART 755—SECRETARY'S DISCRETIONARY PROGRAM FOR MATHEMATICS, SCIENCE, COMPUTER LEARNING, AND CRITICAL FOREIGN LANGUAGES

Subpart A—General

Sec.

Subpart B—What types of Projects Does the Secretary Assist Under this Program?

Subpart C—How Does One Apply for a Grant?

Subpart D—How Does the Secretary Make a Grant?

Authority: 20 U.S.C. 3972, unless otherwise noted.

Subpart A—General

§ 755.1 What is the Secretary's Discretionary Program for Mathematics, Science, Computer Learning, and Critical Foreign Languages?

The Secretary's Discretionary Program for Mathematics, Science, Computer Learning, and Critical Foreign Languages assists projects and national significance in—

(a) Mathematics and science instruction, computer learning, and instruction in critical foreign languages, designed to improve the skills of teachers and instruction in these areas and to increase the access of all students to this instruction; and

(b) Critical foreign languages, designed to improve and expand instruction in those languages.

(Authority: 20 U.S.C. 3972)

§ 755.2 What parties are eligible for a grant under this program?

(a) The Secretary may award nationally significant project grants under § 755.11 to State educational agencies, local educational agencies, institutions of higher education, and nonprofit organizations, including museums, libraries, educational television stations, and professional science, mathematics, and engineering societies and associations.

(b) The Secretary may award critical foreign language grants under § 755.12 to institutions of higher education only.

(Authority: 20 U.S.C. 3972)

§ 755.3 What regulations apply to this program?

(a) The following regulations apply to grants made under this program:

(1) The Education Department General Administrative Regulations (EDGAR) established in Title 34 of the Code of Federal Regulations in Part 74 (Administration of Grants), Part 75 (Direct Grant Programs), Part 77 (Definitions That Apply to Department Regulations), and Part 78 (Education Appeal Board).

(2) The regulations in this Part 755.

(b) The regulations in this Part 755 do not apply to contracts awarded under this program or to projects carried out directly by the Secretary.

(Authority: 20 U.S.C. 3972)

§ 755.4 What definitions apply to this program?

(a) *Definitions in the Education for Economic Security Act.* The following terms used in this part are defined in section 3 of the Education for Economic Security Act:

Elementary school
Institution of higher education
Local educational agency
Secondary school
Secretary
State
State agency for higher education
State educational agency

(b) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR Part 77:

Applicant
Application
Award
Budget
Department
EDGAR
Facilities
Fiscal Year
Grant
Nonprofit
Private
Project
Public

(c) *Additional definitions.* The following terms are used in this part:

"Critical foreign languages" means languages designated by the Secretary in a notice published in the **Federal Register** as critical to national security, economic, or scientific needs.

"EESA" means the Education for Economic Security Act, Public Law 98-377.

"Gifted and talented student", for the purpose of Title II of the EESA, means a student, identified by various measures, who demonstrates actual or potential high performance capability, particularly in the fields of mathematics, science, foreign languages, or computer learning.

"Historically underserved and underrepresented populations" includes females, minorities, handicapped persons, persons of limited-English proficiency, and migrants.

"Magnet school programs for gifted and talented students," as used in § 755.13(a)(1), means programs of gifted and talented students in magnet schools or magnet programs in regular schools that attract gifted and talented students from other schools. For the purpose for Title II, a magnet school is a school or education center that offers a special curriculum, including but not limited to schools or education centers capable of attracting substantial numbers of students of different racial backgrounds.

(Authority: 20 U.S.C. 3972)

§ 755.5 What types of awards does the Secretary make under this program?

(a) The Secretary may award grants and cooperative agreements under this program, depending upon the intended nature of the relationship between the recipient and the Department.

(b) The Secretary evaluates applications for cooperative agreements using the same procedures and criteria as those used to evaluate applications for grants.

(Authority: 20 U.S.C. 3972)

Subpart B—What Types of Projects Does the Secretary Assist Under This Program?

§ 755.10 What type of grants does the Secretary award under this program?

The Secretary awards two types of grants under this program:

(a) Nationally significant project grants, as described in § 755.11.

(b) Critical foreign language grants, as described in § 755.12.

(Authority: 20 U.S.C. 3972)

§ 755.11 What types of projects does the Secretary assist under a nationally significant project grant?

(a) The Secretary funds applications proposing projects of national significance in mathematics and science instruction, computer learning, and instruction in critical foreign languages.

(b) Projects funded under this section may include, but are not limited to, those designed to—

(1) Improve teacher recruitment and retention in the fields of mathematics, science, computer learning, and critical foreign languages; and

(2) Improve teacher qualifications and skills in the fields of mathematics, science, computer learning, and critical foreign languages; and

(3) Improve curricula in mathematics, science, computer learning, and critical foreign languages, including the use of new technologies.

(c) The Secretary does not provide operating revenue to meet local needs to any applicant under this program.

§ 755.12 What types of projects does the Secretary assist under a critical foreign language grant?

(a) The Secretary funds applications proposing projects that are designed to improve or expand instruction in critical foreign languages.

(b) Projects to improve instruction in critical foreign languages may include, but are not limited to, those designed to—

(1) Provide short- or long-term advanced training to foreign language instructors;

(2) Provide training in new teaching methods and proficiency evaluation techniques; and

(3) Improve teaching methods through curriculum development, including the use of new technologies.

(c) Projects to expand instruction in critical foreign languages may include, but are not limited to, those designed to—

(1) Add to the curriculum languages not currently offered;

(2) Add to the curriculum advanced language courses;

(3) Devise instructional approaches suited to diverse student populations and learning needs; and

(4) Use technology to increase access to instruction in critical foreign languages.

(d) The Secretary does not provide operating revenue to meet local needs to any applicant under this program.

[Authority: 20 U.S.C. 3972]

§ 755.13 How does the Secretary establish priorities for this program?

(a) With respect to nationally significant project grants, the Secretary gives priority to—

(1) Local educational agencies, or consortia thereof, proposing to establish or improve magnet school programs for gifted and talented students; and

(2) Applicants proposing to provide special services to historically underserved and underrepresented populations in the fields of mathematics and science.

(b) In addition to the priorities established in paragraph (a) of this section, each year the Secretary may select as a priority one or more of the types of projects listed in § 755.11 or § 755.12.

(c) The Secretary may limit any priority to particular subject areas [mathematics, science, computer learning, or critical foreign languages), particular critical foreign languages, particular educational levels, or any combination of these subject areas, languages, or educational levels.

(d) The Secretary selects priorities by taking into consideration the unmet national needs to improve the quality of teaching and instruction in mathematics, science, computer learning, and critical foreign languages and the unmet national needs to improve or expand instruction in critical foreign languages.

(Authority: 20 U.S.C. 3972)

Subpart C—How Does One Apply for a Grant?

§ 755.20 What assurances must an applicant make?

(a) An applicant that is a State (including a State educational agency or a State agency for higher education) or a local educational agency shall comply with the provisions of section 211 of the EESA, governing the equitable participation of private school children and teachers in the purposes and benefits of the EESA.

(b) An applicant described in paragraph (a) of this section shall include an assurance in its application that, in accordance with section 211 of the EESA, it will provide for the equitable participation of children and teachers in private elementary or secondary schools if the applicant proposes to use grant funds to provide benefits to children and teachers in public elementary or secondary schools, including the provision of services, materials, equipment, and inservice or teacher training and retraining.

Note.—EDGAR establishes requirements for participation of private school children. See 34 CFR 75.650.

(Authority: 20 U.S.C. 3972)

Subpart D—How Does the Secretary Make a Grant?

§ 755.30 How does the Secretary evaluate applications for nationally significant project grants and critical foreign language grants?

(a) For each competition, the Secretary evaluates an application submitted under this program on the basis of the applicable selection criteria in § 755.32 or § 755.33.

(b) The Secretary awards up to 100 points, including a reserved 15 points to be distributed in accordance with paragraph (d) of this section, based on the applicable criteria in § 755.32 or § 755.33.

(c) Subject to paragraph (d) of this section, the maximum possible points for each criterion in § 775.32 or § 755.33 is indicated in parentheses after the heading for each criterion.

(d) For each competition, as announced through a notice published in the **Federal Register**, the Secretary distributes the reserved 15 points among the applicable criteria listed in § 755.32 or § 755.33.

(Authority: 20 U.S.C. 3972)

§ 755.31 How does the Secretary evaluate unsolicited applications?

(a) At any time during a fiscal year, the Secretary may accept and consider for funding an unsolicited application for a project that does not meet a priority established in accordance with § 755.13(b) if the project—

(1) Furthers the purposes and objectives of the program, as described in § 755.1; and

(2) Satisfies all other requirements for funding under this program.

(b) Notwithstanding the provisions of 34 CFR 75.100, the Secretary may fund an unsolicited application without publishing an application notice in the **Federal Register.**

(c) The Secretary may select unsolicited applications for funding in accordance with the procedures contained in § 755.30 (a)–(c).

(d) The Secretary reviews and evaluates an unsolicited application on

the basis of the selection criteria in § 755.32.

(e) The Secretary assigns the reserved 15 points under § 755.30(b) to the selection criterion at § 755.32(g) (National significance) so that the maximum number of possible points for this criterion is 35.

(Authority: 20 U.S.C. 3972)

§ 755.32 What are the selection criteria for nationally significant project grants?

The Secretary uses the following criteria in evaluating each application for a nationally significant project grant under § 755.11:

(a) *Plan of operation.* (10 Points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(1) The quality of the design of the project;

(2) The extent to which the plan of management is effective and insures proper and efficient administration of the project;

(3) How well the objectives of the project relate to the purpose of the program;

(4) The quality of the applicant's plans to use its resources and personnel to achieve each objective;

(5) The extent to which the applicant will provide equal access and treatment for eligible project participants who are members of groups that have been traditionally underrepresented, such as—

(i) Members of racial or ethnic minority groups;

(ii) Women;

(iii) Handicapped persons; and

(iv) The elderly; and

(6) For an applicant who makes an assurance under § 755.20 as to the equitable participation of children and teachers in private elementary or secondary schools, how well the applicant will provide that equitable participation.

(b) *Quality of key personnel.* (5 Points)

(1) The Secretary reviews each application to determine the quality of key personnel the applicant plans to use on the project, including—

(i) The qualifications of the project director (if one is to be used);

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (b)(1) (i) and (ii) of this section will commit to the project; and

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(2) To determine personnel qualifications under paragraphs (b)(1) (i) and (ii) of this section, the Secretary considers—

(i) Experience and training in fields related to the objectives of the project; and

(ii) Any other qualifications that pertain to the quality of the project.

(c) *Budget and cost-effectiveness.* (5 Points) The Secretary reviews each application to determine the extent to which—

(1) The budget is adequate to support the project; and

(2) Costs are reasonable in relation to the objectives of the project.

(d) *Evaluation plan.* (5 Points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(1) Are appropriate to the project; and

(2) To the extent possible, are objective and produce data that are quantifiable.

Cross-reference. See 34 CFR 75.590 Evaluation by the grantee.

(e) *Adequacy of resources.* (5 Points) The Secretary reviews each application to determine the adequacy of the resources that the applicant plans to devote to the project, including facilities, equipment, and supplies.

(f) *Improvement of the quality of teaching and instruction in mathematics, science, computer learning, or critical foreign languages.* (25 Points) The Secretary reviews each application to determine the extent to which the project will contribute to the improvement of teaching and instruction in mathematics, science, computer learning, or critical foreign languages, including—

(1) The objectives of the project; and

(2) The manner in which the objectives of the project further the purposes of improving the quality of teaching and instruction in mathematics, science, computer learning, or critical foreign languages.

(g) *National significance.* (20 Points)

(1) The Secretary reviews each application to determine the national significance of the project.

(2) The Secretary considers the extent to which the project makes a contribution of national significance, as measured by factors such as—

(i) A demonstrated national need for the project in terms of the recommendations to improve the quality of education in the Report of the National Commission on Excellence in Education, other national reports on the status of American education, or current research findings on ways to improve the effectiveness of schools.

(ii) The extent to which the project meets specific national needs as shown by—

(A) The national needs addressed by the project;

(B) The benefits to be gained by meeting the objectives of the project; and

(C) The potential benefit to others from successfully addressing the needs;

(iii) The extent to which the project involves creative or innovative techniques to improve the quality of teaching and instruction in mathematics, science, computer learning, or critical foreign languages;

(iv) The extent to which the project builds upon and adds to current educational information and research; and

(v) The extent to which the project will provide a model or other information that could be used by others to solve educational problems.

(h) *Applicant's commitment and capacity.* (10 Points) The Secretary considers the extent of the applicant's commitment to the project, its capacity to continue the project, and the likelihood that it will build upon the project when Federal assistance ends.

(Authority: 20 U.S.C. 3972)

§ 755.33 What are the selection criteria for critical foreign language grants?

The Secretary uses the following criteria in evaluating each application for a critical foreign language grant under § 755.12:

(a) *Plan of operation.* (15 Points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(1) The quality of the design of the project;

(2) The extent to which the plan of management is effective and insures proper and efficient administration of the project;

(3) How well the objectives of the project relate to the purpose of the program;

(4) The quality of the applicant's plans to use its resources and personnel to achieve each objective;

(5) The extent to which the applicant will provide equal access and treatment

for eligible project participants who are members of groups that have been traditionally underrepresented, such as—

(i) Members of racial or ethnic minority changes;

(ii) Women;

(iii) Handicapped persons; and

(iv) The elderly; and

(6) For an applicant who makes an assurance under § 755.20 as to the equitable participation of children and teachers in private elementary or secondary schools, how well the applicant will provide that equitable participation.

(b) *Quality of key personnel.* (10 Points)

(1) The Secretary reviews each application to determine the quality of key personnel the applicant plans to use on the project, including—

(i) The qualifications of the project director (if one is to be used);

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (b)(1) (i) and (ii) of this section will commit to the project; and

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(2) To determine personnel qualifications under paragraphs (b)(1) (i) and (ii) of this section, the Secretary considers—

(i) Experience and training in fields related to the objectives of the project; and

(ii) Any other qualifications that pertain to the quality of the project.

(c) *Budget and cost-effectiveness.* (5 Points) The Secretary reviews each application to determine the extent to which—

(1) The budget is adequate to support the project; and

(2) Costs are reasonable in relation to the objectives of the project.

(d) *Evaluation plan.* (5 Points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(1) Are appropriate to the project; and

(2) To the extent possible, are objective and produce data that are quantifiable.

Cross-reference. See 34 CFR 75.590 Evaluation by the grantee.

(e) *Adequacy of resources.* (5 Points) The Secretary reviews each application to determine the adequacy of the resources that the applicant plans to devote to the project, including facilities, equipment, and supplies.

(f) *Improvement or expansion of instruction in critical foreign languages.* (30 Points) The Secretary reviews each application to determine the extent to which the project contributes to the improvement or expansion of instruction in one or more critical foreign languages, including—

(1) The objectives of the project;

(2) The manner in which the objectives of the project further the purpose of improving or expanding instruction in critical foreign languages;

(3) The extent to which the project involves techniques that are innovative;

(4) The extent to which the project builds upon and adds to current educational information in and research on instruction in critical foreign languages; and

(5) The extent to which the project will provide a model or other information that could be used by others to solve educational problems.

(g) *Applicant's commitment and capacity.* (15 Points) The Secretary considers the extent of the applicant's commitment to the project, its capacity to continue the project, and the likelihood that it will build upon the project when Federal assistance ends.

(Authority: 20 U.S.C. 3972.)

§ 755.34 What special considerations may the Secretary use in selecting an application for funding?

(a) After evaluating applications according to the criteria contained in § 755.32 or § 755.33, the Secretary may determine whether the most highly rated applications are broadly and equitably distributed throughout the Nation for each competition or under this program.

(b) The Secretary may select other applications for funding if doing so would improve—

(1) The geographical distribution of projects funded under a particular competition or under this program; or

(2) The diversity of activities or projects funded under a particular competition or under this program.

(c) The Secretary may decline to fund a project that is eligible for funding by the Secretary under a different, specific Department of Education competition or program.

(d) The Secretary does not fund a project that receives Federal funds for the same project activities under Title II of the EESA.

(Authority: 20 U.S.C. 3972.)

§ 755.35 Are there restrictions on the use of funds for equipment under this program?

Of the funds made available through a grant under this program, the Secretary may restrict the amount of funds used under Part 755 to purchase equipment.

(Authority: 20 U.S.C. 3972.)

[FR Doc. 87-1705 Filed 1-23-87; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 266

[SWH-FRL 3139-4]

Hazardous Waste Management System; Burning of Used Oil Fuel in Boilers and Industrial Furnaces

AGENCY: Environmental Protection Agency.

ACTION: Notice of tentative determination to deny petitions.

SUMMARY: On November 29, 1985, EPA issued final rules to control the burning of used oil and hazardous waste as fuel under Subtitle C of the Resource Conservation and Recovery Act (RCRA). One provision of those rules established a specification for used oil fuel. Fuel meeting the specification may be burned in any boiler or furnace, while fuel not meeting the specification may only be burned in industrial boilers or furnaces. EPA made this specification effective December 9, 1985, except for the lead limit (of 100 ppm) which became effective May 29, 1986. EPA has now received petitions from three parties requesting (among other things) that the lead limit be suspended. In this notice, EPA is announcing its tentative determination to deny these petitions.

DATE: Comments on this tentative determination to deny petitions will be accepted through March 27, 1987.

ADDRESSES: Comments on this notice should be mailed to the RCRA Docket Clerk (Room S-212) Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC. The Agency requests commenters submit comments in triplicate. Commenters should place Docket #F-86-LSPP-FFFFF on their

comments. For additional details about the RCRA docket, see the "Supporting Documents" section in "Supplementary Information," below.

Requests for a public hearing should be addressed to John P. Lehman, Director of the Waste Management Division (WH565A), at the same address. (If a hearing is requested, EPA will publish a notice in the **Federal Register** stating the time and place of the hearing.)

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free at (800) 424–9346 or (202) 382–3000. For technical information, contact Robert April, Chief of the Capacity and Storage Section, Office of Solid Waste, (202) 382–7917. Single copies of this notice can be obtained by calling the RCRA Hotline (above).

SUPPLEMENTARY INFORMATION:

Preamble Outline

I. Background

On November 29, 1985 EPA promulgated certain rules to control the burning of used oil as fuel. 50 FR 49164–49211. Among other provisions, EPA established a specification for used oil fuel. *Id.* at 49180. 40 CFR 266.40(e). See Table 1, below, for the fuel specification. Fuel meeting the specification may be burned in any boiler or furnace, while fuel exceeding any specification limit may only be burned in an *industrial* boiler or furnace. (See 40 CFR 266.41.) The specification is based on a very important factual finding. EPA has established that fuel not meeting the specification poses a significant hazard when burned in non-industrial boilers and, therefore, that its use must be restricted. *Id.* at 49180–49187. For now, the only restriction is the prohibition on burning in *non*industrial boilers and furnaces. [In a future rulemaking EPA may impose further restrictions to control emissions from burning off-specification used oil fuel in any type of combustion unit.]

Industrial burners may burn off-specification used oil fuel provided they comply with the notification, certification, and record-keeping provisions of 40 CFR 266.44. *Id.* at 49195–49198.

TABLE 1—THE EPA USED OIL FUEL SPECIFICATION[a]

Constituent/property	Allowable level
Arsenic	5 ppm maximum.
Cadmium	2 ppm maximum.
Chromium	10 ppm maximum.
Lead	100 ppm maximum.
Flash Point	100 °F minimum.
Total Halogens	4,000 ppm maximum.[b]

Notes for Table 1:

[a] The specification does not apply to used oil fuel mixed with a hazardous waste other than hazardous waste from small quantity generators conditionally exempt under 40 CFR § 261.5.

[b] Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste under the rebuttable presumption provided under 40 CFR § 266.40(c). Such used oil is subject to 40 CFR Part 266, Subpart D, rather than Part 266, Subpart E, when burned for energy recovery unless the presumption of mixing can be successfully rebutted.

II. The petitions

EPA has received three petitions on the final used oil fuel rules:

(1) Petition from the National Oil Recyclers Association (NORA), dated May 9, 1986. NORA is an association of firms in the business of processing used oil for use as fuel. NORA requests that EPA postpone the effective date of the 100 ppm lead limit until such time as at least 80% of used oil samples, on a nationwide basis meet the limit.

(2) Petition from the Midwest Oil Refining Company, dated May 13, 1986. Midwest Oil processes used oil for use as fuel. Midwest Oil requests that first, EPA rescind the burner notification requirement or, as an alternative, delay the lead limit as NORA recommends; and second, that EPA withdraw its proposed listing of used oil as a hazardous waste. [50 FR 49258; November 29, 1985.]

(3) Petition from The Association of Environmentally Regulated Connecticut Industries (AERCI), dated May 22, 1986. AERCI is an association of firms in the business of processing used oil for use as fuel. AERCI requests delay of the lead limit until September 30, 1986, or later.

The concerns of the three petitioners, in summary, are that EPA's requirements are adversely impacting the used oil fuel market, causing them economic hardship and, they assert, ultimately leading to improper disposal of used oil. The petitioners cite EPA's projection that by May 1986, nearly 80% of used oil samples would be at or below 100 ppm lead. 50 FR 49186. The petitioners, however, provide limited self-sampling data showing that as of March and April 1986, lead levels in used oil being processed for use as fuel were more typically 300–400 ppm and sometimes as high as 500–700 ppm. NORA and Midwest Oil claim that they market used oil fuel to industrial burners, and that these burners are reluctant to notify EPA that they are burning off-specification used oil fuel. NORA and Midwest Oil claim that the reduced demand for used oil fuel will lead to the collapse of the used oil recycling system and to widespread uncontrolled disposal of used oil. The petitioners argue that temporarily suspending the lead limit would allow the continued sale of most used oil fuel as "specification" fuel, exempt from regulation, and would thus prevent such adverse impacts.

III. EPA Response to the Petitions

A. Proposed Listing of Used Oil

Midwest Oil petitioned EPA to withdraw its proposed listing of used oil (when recycled) as a hazardous waste because fuel customers fear adverse publicity, increased liability, etc., perceived to be associated with handling hazardous waste. The Agency, as explained in a recent **Federal Register** notice, has determined that recycled oil will *not* be listed as hazardous waste. [51 FR 41900; November 19, 1986] This aspect of the petition, then is no longer relevant and no specific response is provided here. To the extent the petitioner is also requesting the Agency not to list used oil that is disposed of as a hazardous waste, the Agency will consider the petition as part of its ongoing deliberations over the issue of listing used oil that is disposed of rather than recycled. See 51 FR 41900; November 19, 1986.

Marketers of used oil fuel may cite the listing determination notice to those burners who were concerned because of the listing proposal. As explained further below, burners may also notify EPA using a form or letter without reference to "hazardous waste."

B. The Lead Specification

Lead is a very toxic pollutant with serious (although non-cancerous) health effects even at very low levels. EPA promulgated the 100 ppm limit because we determined that at levels higher than 100 ppm, violations of the National Ambient Air Quality Standard (NAAQS) of 1.5 micrograms per cubic meter (ug/m^3) were likely under certain conditions. [50 FR 1697–1698, January 11, 1985, and 50 FR 49184–49185, November 29, 1985.] EPA concluded that exceedances of the NAAQS would cause toxic health effects, especially in children and other sensitive populations and, as a *minimum*, the Agency must act to prevent such occurrences. [ID.] As we discussed at 50 FR 49185 (November 29, 1985), EPA is considering a limit lower than 100 ppm.

The petitioners argue that EPA cited projections of lead content in used oil showing that by May 1986 approximately 80 percent of used oil samples nationwide would meet the 100 ppm lead limit as-generated, i.e., without blending with virgin fuel oil. The petitioners provided, however, self-sampling data showing that by March or April of 1986, lead levels in used oil they processed were not near 100 ppm, but more typically 300–400 ppm. They argue that EPA should therefore delay imposition of the 100 ppm limit until such time as 80 percent of used oil samples, on a nationwide basis, meet the limit.

Petitioners' reasoning here, however, starts with the incorrect premise that EPA only established a 100 ppm lead limit for used oil because we thought 80 percent of used oil, as generated, would meet such limit on May 29, 1986. As explained above, EPA established the limit to prevent health effects; we never conditioned the limit on any set percentage of samples meeting the limit. In fact, EPA expected that even if lead levels dropped substantially, most unblended used oil would still be off-specification in May 1986. [See 50 FR 49186, Table 5; November 29, 1985.] Data submitted by the petitioners confirms this to be a reasonably accurate prediction. See Table 2.

TABLE 2.—Data Submitted by Petitioners

	Number Samples Analyzed	Number Samples Analyzed for Arsenic, Cadmium, or Chromium	Number Samples Exceeding Specification Levels for either Arsenic, Cadmium, or Chromium
A. Petitioner			
NORA	34	11	3
AERCI	18	2	1
B. Petitioner	Number Samples Analyzed	Number Samples Analyzed for Total Halogens	Number Samples Exceeding 1000 ppm Halogen Level[1]
NORA	34	5	2
	Number Samples Analyzed	Number Samples Analyzed for Individual Chlorinated Solvents	Number Samples Exceeding 100 ppm for Any Individual Chlorinated Solvent[2]
C. Petitioner			
AERCI	18	18	11
	Number Samples Analyzed	Number Samples Analyzed for Lead	Number Samples Exceeding Lead Specification
D. Petitioner			
NORA	34	34	34
AERCI	18	18	18

[1] Used oil containing greater than 1,000 ppm total halogens is rebuttably presumed to be hazardous waste. See 40 CFR 266.40(c), discussed at 50 FR 49176, November 29, 1985.
[2] Used oil containing greater than 100 ppm of a hazardous spent solvent has probably been mixed with that solvent. See 50 FR 49176, November 29, 1985.

Petitioners also cite the staggered effective date EPA promulgated as justification for suspension of the 100 ppm lead limit. EPA made the specification (and the ban on burning off-specification fuel in nonindustrial boilers) effective December 9, 1985, except that the 100 ppm lead limit did not become effective until May 29, 1986. [50 FR 49185–49186; November 29, 1985.] The petitioners argue that EPA was "delaying" the imposition of the lead limit until 80 percent of used oil samples meet the 100 ppm limit. As discussed above, EPA did not condition imposition of the 100 ppm limit on any set percentage of samples meeting the limit, and neither did we so condition the schedule for imposing the rules. Making the lead limit effective May 29, 1986, gave the regulated community six months to comply with the rules; this is the usual amount of time contemplated for compliance with RCRA subtitle C regulations. See RCRA section 3010(b). The somewhat unusual action in this case was making the remainder of the specification effective within only 10 days. This action was taken to put some of the controls in place as soon as practicable during the 1985–86 heating season. [Id at 49202.]

Some of the petitioners, after submission of their original petitions, later raised the issue that EPA, in making its projections on lead levels in used oil, did not take into account the Agency's "lead credits" program, under which gasoline marketers can use "banked" lead to market leaded gas in exceedance of the national standard of 0.1 grams per gallon. [See 40 CFR 80.20(e).] EPA agrees that when banked lead is taken into account, lead levels in used oil (nationwide) will fall more slowly than was predicted on November 29, 1985. It does not follow, however, that EPA should therefore extend the imposition of the lead limit to some future date, i.e., presumably until the lead credit provision is no longer allowed. As discussed above, imposition of the used oil rules was not conditioned on any set percentage of used oil meeting the specification. The discussion at 50 FR 49185–49186 concerned whether the lead limit should be imposed almost immediately (i.e., December 9, 1985) or 6 months later, both dates being within the normal scope of effective dates under RCRA section 3010(b). EPA, neither in the January 11, 1985 proposal nor at any other time, proposed an extended phase-in of its used oil fuel specifications that would be similar to the Agency's leaded gasoline reduction program. The two situations are very different. In the case of leaded gasoline, EPA is working toward reduction or elimination of the use of lead as a fuel additive. Gasoline containing lead in excess of the national standard must not even be produced. [See § 80.20(a)(1).] Refiners must modify production processes or leave the gasoline production business. In contrast, EPA does not prohibit production or marketing of off-specification used oil fuel, but rather restricts marketing only to industrial burners. To implement this restriction, minimal paperwork controls (i.e., §§ 266.43(b) and 266.44) have been imposed on the marketing of off-specification used oil fuel.

In summary, EPA finds no basis for suspending the used oil fuel lead limit. Petitioners' arguments are based on misconceptions of the original basis for the specification. Most importantly, the specification is EPA's definition of contaminated fuel, and the rules in Part 266, Subpart E are designed to keep such fuel out of residential and other nonindustrial boilers. EPA did consider how easy or difficult it would be to meet

the specifications. We expected most used oil, as-generated, would not meet the specification. By analogy with section 3010(b), we provided that the regulations would become effective six months after promulgation, which allowed the used oil market some time to adjust. We are presently unconvinced that it is appropriate to suspend or "phase-in" controls over any longer period of time.

C. Burner Notification

EPA does not see a basis for rescinding the notification requirement for burners of off-specification fuel. First, the notification is a necessary part of EPA's efforts to control the burning of contaminated fuels. Second, the notification is by no means a burdensome requirement, and therefore, the Agency has concluded it does not adversely affect used oil recycling.

1. *Uses of the notification.* Congress, in amending RCRA sections 3004 and 3010 in 1984 to include the special waste-as-fuel provisions, was reacting to what they perceived as a "major deficiency in the . . . RCRA regulations . . ." [See H.R. Rep. No. 98–196 at 39.] RCRA section 3010(a), as amended, was self-implementing so that if EPA did not act, all burners of used oil (with certain exceptions specified in the statute) would have been required to notify by February 1986. EPA did act to require notification but, as authorized by Congress, we exempted from the statutory notification (and all other requirements) burners of *specification* used oil fuel. EPA determined that since burning *specification* used oil fuel does not pose a serious hazard, no regulation is necessary. [50 FR 49180; November 29, 1985.]

EPA determined that a continuing notification requirement was needed for processors, marketers, and burners of off-specification used oil fuel. [To the extent the requirement applies after February, 1986 the requirement does not derive from section 3010, but rather serves, and is derived from, general information gathering authority. The Agency intends to issue a technical clarification in the near future to explain which notifications derive from section 3010 and which do not.]

EPA does not agree with the petitioner who asserts that notification by burners of *off*-specification used oil fuel is also unnecessary. As stated on November 29, 1985: "Notification is necessary because EPA must be able to identify those persons who engage in waste-as-fuel activities in order to ensure that waste fuels are managed properly and not routed to nonindustrial markets." [Id at 49195.] It is not sufficient, as the petitioner suggests, for EPA to inspect sales records of used oil fuel marketers. We believe the burner notification requirement serves the important function of providing the Agency with an independent means of checking the assertions of marketers that they are in fact selling off-specification used oil fuel only to the industrial market. For example, if the Agency suspected a specific marketer of selling off-specification used oil fuel to non-industrial burners, one way to determine whether this was in fact occurring would be to compare fuel sales records at the marketer's facility with the Agency's own list of industrial burners who have notified as required.

2. *Impacts on recycling.* When EPA issued its final used oil fuel regulations on November 29, 1985, we concluded that the regulations as a whole would have a minimal impact on used oil recycling. (50 FR 49201–49202.) The notification requirement for burners of off-specification used oil fuel itself was estimated to be a one-time cost of $50 per burner. (50 FR 1708; January 11, 1985.) We cannot agree with the petitioners' argument that the notification requirement is *per se* burdensome and therefore inhibits recycling. Although the petitioners argue that the notification requirement is causing reduced fuel sales, the Agency believes that burners' misunderstanding about the significance of the notification, and the unusually low price of virgin fuels, are the real causes of burners' reluctance to purchase used oil fuel. For example, the petition by Midwest Oil cites, almost exclusively, burners' concerns over the listing of used oil as hazardous waste. As EPA explained on November 19, 1986, (51 FR 41900), the Agency will not be listing recycled oil as a hazardous waste, so these concerns are no longer valid. EPA has been active in attempting to help burners understand current requirements, and is now working to publicize the decision that recycled oil will not be listed as a hazardous waste. We have also made it known that burners who are concerned that the RCRA notification form (EPA Form 8700–12) includes the term "hazardous waste" may notify on a form amended to remove that term, or may notify by letter, so long as all required information is provided. Finally, EPA has made available information bulletins that explain and reiterate current burner requirements. [Bulletins may be obtained by calling the RCRA Hotline at (800) 424–9346 or (202) 382–300.] These steps, we believe, should allay burners' fears and clear up misconceptions.

EPA also notes that in written comments to the Agency and in oral testimony before the House Subcommittee on Energy, Environment, and Safety Issues Affecting Small Business (May 19, 1986), the National Asphalt Pavement Association (NAPA) indicated that its membership remained interested in burning used oil fuel, provided that only limited requirements were imposed. [Asphalt concrete plants comprise a large segment of the industrial market for off-specification used oil fuel, and NAPA member firms produced about 75% of the total hot mix asphalt produced in the U.S.] The notification requirement was not cited by NAPA as being onerous. And in fact, NAPA states that most of its members were required to notify the EPA under the small quantity generator rules made final March 24, 1986. [51 FR 10146.]

The only conceivable impact a notification requirement could have is to partially stigmatize the recycled oil as being not completely safe to burn because it is called "off-specification." Although the off-specification designation has limited legal significance—it triggers notification and recordkeeping requirements, and off-specification used oil fuel may not be burned in non-industrial boilers—the name connotes potential risks from burning, and the possiblity of future regulation. EPA believes this potential stigma to be unavoidable. We have found that off-specification used oil fuel can pose significant risks when burned, particularly when burned in non-industrial boilers. There may well be future regulation of such fuel, such as restricting circumstances when it may be burned in devices without air pollution control equipment. These possibilities exist no matter what the used oil fuel is called, and whether or not burners file a one-time notification. Any such possible stigmatization does not pose an adequate basis for rescinding the notification requirement.

IV. Summary

In summary, EPA is proposing to reject petitioner's arguments that it modify the 40 CFR Part 266, Subpart E regulations for used oil fuel. As per 40 CFR 261.20, EPA will accept comment on its tentative determination to deny these petitions. After evaluating all public comments, the Agency will publish in the **Federal Register** either a final denial of the petitions, or if we are persuaded that one or more of the petitions should be granted, a new proposal to grant such petition(s).

V. Supporting Documents

Documents relevant to this rulemaking are listed below. They have been placed in the RCRA Docket at EPA (Sub-basement), 401 M Street, SW., Washington, DC 20460. The docket number for this rulemaking is F–86–LSPP–FFFFF. The docket is open from 9:30 a.m. to 3:30 p.m., Monday through Friday, except for Federal holidays. The public must make an appointment to review docket materials by calling Mia Zmud at (202) 475–9327 or Kate Blow at (202) 382–4675. The public may copy a maximum of 50 pages of material from any one regulatory docket at no cost. Additional copies cost 0.20 per page.

Documents

1. Petition from the National Oil Recyclers Association, dated May 9, 1986.
2. Petition from Midwest Oil Refining Company, dated May 13, 1986.
3. Petition from the Association of Environmentally Regulated Connecticut Industries, dated May 22, 1986.
4. EPA *Information Bulletin* for used oil recyclers and burners, dated June 13, 1986.
5. Written comments of National Asphalt Pavement Association to EPA, dated April 9, 1986.
6. Testimony of National Asphalt Pavement Association, dated May 19, 1986.

List of Subjects in 40 CFR Part 266

Hazardous waste, Recycling.

Dated: January 15, 1987.

Lee M. Thomas,

Administrator.

[FR Doc. 87–1531 Filed 1–23–87; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 721

[OPTS–50537A; FRL–3146–8]

PBBs and Tris; Significant new Uses of Chemical Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is promulgating a significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for eight polybrominated biphenyls (PBBs) and the substance Tris (2,3-dibromopropyl) phosphate (Tris). EPA believes that these substances may be hazardous to human health and the environment and that any use of these substances may result in significant human or environmental exposures. As a result of this rule, persons who intend to manufacture, import, or process these substances for any use are required to notify EPA at least 90 days before commencing that activity. The required notice provides EPA with the opportunity to evaluate the intended use and, if necessary, prohibit or limit that activity before it occurs.

DATES: In accordance with 40 CFR 23.5 (50 FR 7271), this rule shall be promulgated for purposes of judicial review at 1 p.m. eastern time on February 9, 1987. This rule becomes effective on March 11, 1987.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–543, 401 M St., SW., Washington, DC 20460, Telephone: (202) (554–1404), Outside the USA: (Operator–202–554–1404).

SUPPLEMENTARY INFORMATION:

I. Authority

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a "significant new use." The Agency must make this determination by rule, after considering all relevant factors, including those listed in section 5(a)(2). Once EPA determines that a use of a chemical substance is a significant new use, section 5(a)(1)(B) of TSCA requires persons to submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use.

Persons subject to this SNUR must comply with the same notice requirements and EPA regulatory procedures as submitters of premanufacture notice (PMNs) under section 5(a)(1)(A) of TSCA. In particular, these requirements include the information submission requirements of section 5(b) and (d)(1), the exemptions authorized by section 5(h)(1), (2), (3), and (5), and the regulations at 40 CFR Part 720. Once EPA receives a SNUR notice, the Agency may take regulatory action under section 5(e), 5(f), 6, or 7 to control the activities for which it has received a SNUR notice. If EPA does not take action, section 5(g) of TSCA requires the Agency to explain in the **Federal Register** its reasons for not taking action.

Persons who intend to export a substance identified in a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b). The regulations that interpret section 12(b) appear at 40 CFR Part 707. Persons who intend to import a chemical substance are subject to the TSCA section 13 import certification requirements, which are codified at 19 CFR 12.118 through 12.127 and 127.28. Persons who import a substance identified in a final SNUR must certify that they are in compliance with the SNUR requirements. The EPA policy in support of the import certification requirements appears at 40 CFR Part 707.

II. Applicability of General Provisions

In the **Federal Register** of September 5, 1984 (49 FR 35011), EPA promulgated general regulatory provisions applicable to SNURs (40 CFR Part 721, Subpart A). The general provisions are discussed in detail in the **Federal Register** notice, and interested persons should refer to that document for further information. These general provisions apply to this SNUR except as discussed in this preamble and as set forth in §§721.230 and 721.1021 of this rule. On April 22, 1986 (51 FR 15104), EPA proposed revisions to the general provisions, some of which would apply to this SNUR.

III. Summary of This Rule

The chemical substances which are the subjects of this SNUR are eight substances known as polybrominated biphenyls, and Tris (2,3-dibromopropyl) phosphate. The PBBs, without regard to impurities, consist of biphenyl molecules having the molecular formula $C_{12}H_xBr_y$ where $x + y = 10$ and y ranges from 1 to 10. This SNUR, applies to the following substances listed on the TSCA Inventory of chemical substances:

CAS No.	Name
92–66–0	1,1'-Biphenyl, 4-bromo - (4-Bromobiphenyl)[1].
92–86–4	1,1'-Biphenyl,4, 4' - dibromo - (4,4' - Dibromobiphenyl)[1].
2052–07–5	1,1'-Biphenyl, 2 -bromo - (2 - Bromobiphenyl)[1].
2113–57–7	1,1'-Biphenyl, 3 -bromo - (3 - Bromobiphenyl)[1].
13654–09–6	1,1'-Biphenyl, 2,2', 3,3', 4.4', 5,5', 6,6' - decabromo - (Decabromobiphenyl)[1]
27753–52–2	Nonabromobiphenyl (unspecified location of bromines).
27858–07–7	Octabromobiphenyl (AR,AR,AR,AR',AR',AR', AR').
36355–01–8	Hexabromobiphenyl (unspecified location of bromines).
126–72–7	tris (2,3-dibromopropyl) phosphate (Tris)[1].

[1] Common name.

EPA is designating any use of these PBBs and Tris as a significant new use of these substances. This rule requires persons intending to manufacture,

import, or process these substances to submit a significant new use notice to EPA at least 90 days before they manufacture, import, or process any of the PBBs or Tris for this significant new use (i.e., for any use). The manufacture or import of PBBs not listed on the Inventory requires submission of a PMN under section 5(a)(1) of TSCA. Accordingly, they are not covered by this SNUR.

IV. Background

A. Regulatory History

In a notice published in the **Federal Register** of October 13, 1977 (42 FR 55134), EPA announced its intent to investigate the need to control PBBs and Tris under TSCA. Subsequently, the Agency decided to issue a reporting rule under section 8(a) of TSCA for PBBs and Tris.

The final section 8(a) rule requiring submission of Notice of Manufacture or Importation of PBBs and Tris was published in the **Federal Register** of October 24, 1980 (45 FR 70728). That final rule, in accordance with EPA's policy for implementing Executive Order 12044, contained a sunset provision to terminate the reporting requirements of the rule on May 1, 1985. Executive Order 12044 has since been revoked by Executive Order 12291. Since the sunset provision terminated the reporting requirements of the section 8(a) rule, EPA reassessed the toxicity of these substances, past and current exposures to these substances, and the need for a further information gathering rule. Though Tris is listed as a "hazardous substance" under the Comprehensive Environmental Response, Compensation and Liability Act, presently, neither PBBs nor Tris are subject to a Federal regulation that would provide EPA with notice of resumed use of these substances and would allow EPA to control adverse exposure to them before it could occur. The Agency concluded that a SNUR would be the most appropriate mechanism to monitor any resumption of commercial activity involving these chemical substances and issued a proposed SNUR in the **Federal Register** of July 7, 1986 (51 FR 24555).

B. Production and End Use Data

EPA has concluded that neither the designated PBBs nor Tris have been manufactured in, imported into, processed in, or used in the U.S. for commercial purposes since at least 1980, except for small quantities for research and development.

PBBs had been used as flame retardants in plastic for electrical equipment housings and a variety of other plastic products.

This was used as a flame retardant in sleepwear, carpets, rugs, mattresses, and mattress pads.

Effective substitutes have been found for all major end uses of both PBBs and Tris.

C. Human Health and Environmental Effects

EPA prepared a hazard assessment of PBBs in 1979 which indicated that they are teratogenic, embryotoxic, and immunosuppressive in mice and rats, and carcinogenic in rats. Positive results from National Cancer Institute (NCI) bioassays show that a mixture of polybrominated biphenyls caused hepatocellular carcinomas in mice of both sexes, and hepatocellular carcinomas and cholangiocarcinomas in rats of both sexes. The dose response was statistically significant at a level of $p < 0.01$.

In 1980, EPA published the results of a comprehensive medical evaluation on 42 workers employed in a plant which produced PBBs. Ninety-six workers from a neighboring industry not involving PBBs were used as a control. The data showed that the PBB serum levels were significantly higher and that there was a higher prevalence of primary hypothyroidism among the PBB workers.

PBBs are persistent, accumulate in the environment, and should show similar toxicity to polychlorinated biphenyls. During manufacture or processing they could be emitted to the air as particulate matter and dispersed in waste waters, ultimately binding to sediment and soil. Data on the environmental hazard of PBBs can be found in EPA's publications entitled, "Status Assessment of Toxic Chemicals: Polybrominated Biphenyls, IERL, EPA 1979," and "Assessment of the Hazards of Polybrominated Biphenyls, OTS, EPA, 1978."

In a NCI bioassay, Tris was shown to cause statistically significant increases in the number of kidney-cell adenomas in rats of both sexes, especially in males, at 50 and 100 ppm levels in the animal's food. Significant increases in the number of malignant neoplasms of the lung and forestomach were found in male mice. In female mice, increased malignant neoplasms of the liver and stomach were also reported. Tris was evaluated by the EPA Carcinogen Assessment Group and sufficient evidence was found to indicate that it is a carcinogen. Under the EPA guidelines for carcinogen risk assessment published in the **Federal Register** of September 24, 1986 (51 FR 33992), Tris would be classified as B2—probable human carcinogen. It is also mutagenic in bacteria, causes testicular atrophy and damage to the liver and kidneys in rabbits, and has the potential to cause heritable genetic changes. Tris has been shown to have potential to be acutely and chronically toxic to aquatic organisms. Water in which fabric treated with Tris was immersed, was toxic to goldfish, causing death within 24 hours. The mode of action is the inhibition of cholinesterase or mixed-function oxidase or both. Tris has been shown to be 6 times more acutely toxic to rainbow trout sac fry than trout fingerlins. Tris is expected to bioaccumulate, although to a lesser degree when compared with PBBs; ultimate biodegradation is also slow.

D. Past and Current Exposures

Workers were exposed to PBBs and Tris in air as vapor or dust during manufacture and processing, and consumers have used products containing these substances. Since neither the designated PBBs nor Tris are now being manufactured, imported, processed, or used for commercial purposes, there is currently no exposure to these substances, except for that which may occur when small quantities are used for research or analysis.

V. Comment on Proposed Rule

During the 60-day comment period following the publication of the proposed rule, one comment was received. The commenter stated that, though PBBs and Tris have not been produced in commercially significant quantities for a number of years, they have been continuously available in minute quantities for use as analytical standards and reference materials.

EPA did not consider this use in the SNUR because an exemption for these activities is set forth in section 5(h)(3) of TSCA. That section of TSCA states:

> The requirements of subsections (a) and (b) do not apply with respect to the manufacturing or processing of any chemical substance which is manufactured or processed, or proposed to be manufactured or processed, only in small quantities (as defined by the Administrator by rule) solely for purposes of—
>
> (A) scientific experimentation or analysis, or (B) chemical research on, or analysis of such substance or another substance, including such research or analysis for development of a product, if all persons engaged in such experimentation, research, or analysis for a manufacturer or processor are notified (in such form and manner as the Administrator may prescribe) of any risk to health which the manufacturer, processor, or the Administrator has reason to believe may be associated with such chemical substance.

Thus, persons who manufacture, import, or process a chemical substance in small quantities solely for research and development (R&D) can conduct the R&D concerning a significant new use without submitting a notice. However, the manufacturer or importer of such a substance must comply with the requirements of 40 CFR 720.36 and 720.78(b).

VI. Objectives and Rationale for the Rule

To determine what would constitute a significant new use of these chemical substances, EPA considered relevant information on the toxicity of the substances, likely exposure and releases associated with possible uses, and the four factors listed in section 5(a)(2) of TSCA. Based on these considerations, EPA wishes to achieve the following objectives with regard to the significant new use that is designated in this rule:

1. The Agency wants to ensure that it will receive notice of any company's intent to manufacture, import, or process the listed PBBs or Tris for a significant new use before that activity begins.

2. The Agency wants to ensure that it will have an opportunity to review and evaluate data submitted in a significant new use notice before the notice submitter begins manufacturing, importing, or processing the listed PBBs or Tris for the significant new use.

3. The Agency wants to ensure that it will be able to regulate prospective manufacturers, importers, or processors of the listed PBBs or Tris before a significant new use of those substances occurs, provided that the degree of potential health and environmental risk is sufficient to warrant such regulation.

As explained in Unit IV of this preamble, both PBBs or Tris can cause carcinogenic and other adverse health and environmental effects; are not currently manufactured, imported, processed, or used for commercial purposes; and are not subject to any Federal regulation that would notify EPA of potentially adverse exposures to these chemical substances or provide EPA with a regulatory mechanism that could protect human health or the environment from an adverse exposure before it occurred.

EPA believes that resumption of any use of the designated PBBs or Tris and the related manufacturing, importing, or processing has the potential to substantially increase human and environmental exposures to these substances. Each of these activities has a high potential to increase the magnitude and duration of exposure above, and to change the type or form of exposure from, that which currently exists. Given the toxicity of these chemical substances, the reasonably anticipated circumstances of exposure, and the lack of available regulatory controls, individuals who would be involved in any use and the related manufacture, import, or processing of the PBBs or Tris may be exposed to these substances at levels which may result in adverse effects. Furthermore, such uses, and related activities, may result in the environmental release of these substances, thereby creating additional opportunities for adverse effects on human health and the environment.

The consideration of these factors has resulted in EPA's decision that any use of the listed PBBs or Tris be designated a significant new use of these chemical substances. Thus, persons intending to manufacture, import, or process the listed PBBs or Tris for any use are required to notify EPA at least 90 days before they begin such manufacture, import, or processing. Advance notification of such activities will allow EPA the opportunity to evaluate the intended use and to protect against adverse exposures to the PBBs or Tris before they occur.

Consistent with EPA's concern about any exposure to the designated PBBs and Tris resulting from any use, including exposure resulting from manufacture, import, or processing related to any use of the PBBs or Tris, paragraph (b)(1) of each section provides that any person who intends to manufacture, import, or process any of the PBBs or Tris and intends to distribute the substance in commerce must submit a significant new use notice so that EPA can review all activities before they occur.

VII. Alternatives

In the proposed SNUR, EPA considered alternative regulatory actions for the listed PBBs and Tris. For the reasons discussed in the preamble to the proposed rule, EPA has decided to proceed with the promulgation of a SNUR for these substances.

VIII. Applicability of Proposal to Uses Occurring Before Promulgation of Final Rule

EPA believes that the intent of section 5(a)(1)(B) is best served by designating a use as a significant new use as of the proposal date of the SNUR rather than as of the promulgation of the final rule. If uses begun during the proposal period of a SNUR were considered ongoing as of the date of promulgation, it would be difficult for the Agency to establish SNUR notice requirements, because any person could defeat the SNUR by initiating the proposed significant new use before the rule became final. This interpretation of section 5 would make it extremely difficult for the Agency to establish SNUR notice requirements.

Thus, persons who began commercial manufacture, importation, or processing of the listed PBBs or Tris for a significant new use designated in this rule between proposal and promulgation of the SNUR must cease that activity before the effective date of this rule. To resume their activities, these persons must comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires.

IX. Test Data and Other Information

EPA recognizes that, under section 5 of TSCA, persons are not required to develop any particular test data before submitting a significant new use notice. Rather, persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them.

However, in view of the potential health and environmental risks that may be posed by a significant new use of these PBBs or Tris, EPA encourages potential SNUR notice submitters to conduct tests on chronic health effects, reproduction, bioaccumulation, and degradation, as well as any other tests that would permit a reasoned evaluation of risks posed by these substances when utilized for an intended use. These studies may not be the only means of addressing potential risks. SNUR notices submitted without accompanying test data may increase the likelihood that EPA would take action under section 5(e).

EPA encourages persons to consult with the Agency before selecting a protocol for testing the substances. As part of this optional prenotice consultation, EPA will discuss the test data it believes necessary to evaluate a significant new use of the substances. Test data should be developed according to TSCA Good Laboratory Practice Standards at 40 CFR Part 792. Failure to do so may lead the Agency to find such data to be insufficient to reasonably evaluate the health and environmental effects of the substance.

EPA urges SNUR notice submitters to provide detailed information on human exposure and environmental release that may result from the significant new use of the listed PBBs or Tris. In addition, EPA encourages persons to submit information on potential benefits of the substances and information on

risks posed by the substances compared to risks posed by potential substitutes.

X. Economic Analysis

EPA has evaluated the potential costs of establishing significant new use notice requirements for potential manufacturers, importers, and processors of the listed PBBs and Tris. The Agency's complete economic analysis is available in the public record for this rule (OPTS–50537A). The economic analysis is summarized below.

Cost to the industry as a result of this SNUR could occur in one of two ways. Direct costs would be incurred by firms that intend to manufacture, import, or process the listed PBBs or Tris for any use. These costs are the costs of submitting a SNUR notice to the Agency, which are estimated to be $1,400 to $8,000 per notice, as well as related costs due to possible delays in intended use, costing up to an estimated 3.2 percent of profits. Additional costs associated with regulatory follow-up could also be incurred by a submitter, but these costs are too uncertain to estimate.

The direct costs to industry are the result of a firm's decision to manufacture, import, or process the listed PBBs or Tris for any use, because of the cost of submitting a SNUR notice and the potential costs of regulatory follow-up.

The indirect cost of such an outcome would be the difference in the future stream of profits foregone by a company due to the SNUR and the stream of profits obtained by investing the same resources in the next best alternative investment. Because adequate substitutes for the former uses of PBBs and Tris appear to have been adopted, EPA expects the likelihood of a company's intending to engage in any use of these chemical substances to be small; thus, the Agency expects the overall economic impact of this rule to be small.

XI. Rulemaking Record

EPA has established a record for this rulemaking (docket control number OPTS–50537A). The record includes basic information considered by the Agency in developing this rule:

1. The proposed rule.
2. Comment received on the proposed rule.
3. This final rule.
4. The economic support documents for this rule.

5. Alvarez, G.H., Page S.W., Ku, Y. Biodegradation of 14C-tris (2,3-dibromopropyl) Phosphate in a Laboratory Activated Sludge System. Bulletin of Environmental Contamination and Toxicology 28:85–90. 1982.

6. Bahn, A.K., Bialik, O., Oler, J., Houten, L., Landau, E., Health Assessment of Occupational Exposure to Polybrominated Biphenyl (PBB) and Polybrominated Biphenyloxide (PBBO). Environmental Protection Agency, 1980.

7. Eldefrawi, A.T., Mansour, N.A., Brattsten, L.B., Ahrens, V.D., and Lisk, D.J. Further Toxicologic Studies with Commercial and Candidate Flame Retardant Chemicals. Part II. Bulletin of Environmental Contamination and Toxicology. 17:720–726. 1977.

8. Gutenmann, W.H., Lisk, D.J. Flame Retardant Release From Fabrics During Laundering and Their Toxicity to Fish. Bulletin of Environmental Contamination and Toxicology. 14:61–64. 1975.

9. Lynn, R.K., Garvie—Gould, C., Wong, K., Kennish, J.M. Metabolism, Distribution and Excretion of the Flame Retardant Tris (2,3 dibromopropyl) Phosphate (Tris–BP) in the Rat: Identification of Mutagenic and Nephrotoxic Metabolites, Toxicology and Applied Pharmocology 63. 1982.

10. Maylin, G.A., Henion, J.D., Hicks, L.J., Leibovitz, L., Ahren, V.D., Gilbert, M., Lisk D.J. Toxicity to Fish of Flame Retardant Fabrics Immersed in Their Water. Part I. Bulletin of Environmental Contamination and Toxicology. 17:499–504. 1977.

11. NCI. National Cancer Institute. Bioassay of Tris (2,3-dibromopropyl) phosphate. Technical Report Series No. 6, Washington, DC: Department of Health, Education, and Welfare. 1978.

12. NTP. National Toxicology Program. Polybrominated biphenyl mixture. Bioassay Report Summary NTP–TR–244. Washington, DC. Department of Health and Human Services. 1978.

13. Sitthichaikasem, S. Some Toxicological Effects of Phosphate Esters on Rainbow Trout and Bluegill. Ph.D. dissertation, Iowa State University, Ames, Iowa. Available from Dissertation Abstracts, Ann Arbor, MI, Abstract No. 7813246. 1978.

14. U.S. Consumer Product Safety Commission. Current Evaluation of the Hazards and Risk to Children from Tris-Treated Pajamas. Consumer Product Safety Commission, Health Sciences Staff. 1981.

15. U.S. Consumer Product Safety Commission, Memorandum. 1981.

16. United States Environmental Protection Agency. Assessment of The Hazards of Polybrominated Biphenyls. Washington, DC: Office of Toxic Substances. 1978.

17. United States Environmental Protection Agency. Status Assessment of Toxic Chemicals: Polybrominated Biphenyls. Cincinnati, OH: Industrial Environmental Research Lab, Office of Research and Development. 1979.

A public version of this record is available to the public in the OTS Public Information Office from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. The OTS Public Information Office is located in Rm. NE–G004, 401 M St., SW., Washington, DC.

XII. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this rule is not a "major" rule because it will not have an effect on the economy of $100 million or more, and it will not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the total annual cost of compliance with this rule. EPA estimates industry's cost for submitting a SNUR notice to be approximately $1,400 to $8,000. Further, while the expense of a notice and the uncertainty of possible EPA regulation may discourage certain innovation, that impact will be limited because such factors are unlikely to discourage an innovation that has high potential value.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 605(b), EPA has determined that this rule will not have a significant impact on a substantial number of small businesses. The Agency has not determined whether parties affected by this rule are likely to be small businesses. However, EPA expects to receive few SNUR notices for the substances. Therefore, the Agency believes that the number of small businesses affected by this rule will not be substantial, even if all of the SNUR notice submitters are small firms.

C. Paperwork Reduction Act

OMB has approved the information collection requirements contained in the rule under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and has assigned OMB control number 2070–0038 to this rule.

List of Subjects in 40 CFR Part 721

Chemicals, Environmental protection, Hazardous materials, Recordkeeping and reporting requirements, Significant new uses.

Dated: January 16, 1987.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

PART 721—[AMENDED]

Therefore, 40 CFR Part 721 is amended as follows:

1. The authority citation for Part 721 continues to read as follows:

Authority: 15 U.S.C. 2604 and 2607.

2. By adding new §§ 721.230 and 721.1021 to read as follows:

§ 721.230 Polybrominated biphenyls.

(a) *Chemical substances and significant new use subject to reporting.* (1) The chemical substances 1,1'-(Biphenyl, 4-bromo-(CAS No. 92-66-0); 1,1'-Biphenyl, 4,4'-dibromo-(CAS No. 92-86-4); 1,1'-Biphenyl, 2-bromo-, (CAS No. 2052-07-5); 1,1'- Biphenyl, 3-bromo-, (CAS No. 2113-57-7); 1,1'- Biphenyl, 21,2', 3,3' 4,4', 5,5', 6,6'- decabromo- (CAS No. 13654-09-6,); Nonabromobiphenyl (CAS No. 27753-52-2); Octabromobiphenyl (CAS No. 27858-07-7); and Hexabromobiphenyl (CAS No. 36355-01-8) are subject to reporting under this section for the significant new use described in paragraph (a)(2) of this section.

(2) The significant new use is: any use.

(b) *Special provisions.* The provisions of Subpart A of this Part apply to this section except as modified by this paragraph.

(1) *Persons who must report.* Section 721.5 applies to this section except for § 721.5(a)(2). A person who intends to manufacture, import, or process for commercial purposes a substance identified in paragraph (a)(1) of this section and intends to distribute the substance in commerce must submit a significant new use notice.

(2) [Reserved]

(Approved by the Office of Management and Budget under control number 2070-0038)

§ 721.1021 Tris (2,3-dibromopropyl) phosphate.

(a) *Chemical substance and significant new use subject to reporting.* (1) The chemical substance tris (2,3-dibromopropyl) phosphate (CAS Number 126-72-7) is subject to reporting under this section for the significant new use described in paragraph (a)(2) of this section.

(2) The significant new use is: any use.

(b) *Special provisions.* The provisions of Subpart A of this Part apply to this section except as modified by this paragraph.

(1) *Persons who must report.* Section 721.5 applies to this section except for § 721.5(a)(2). A person who intends to manufacture, import, or process for commercial purposes the substance identified in paragraph (a)(1) of this section and intends to distribute the substance in commerce must submit a significant new use notice.

(2) [Reserved]

(Approved by the Office of Management and Budget under control number 2070-0038)

[FR Doc. 87-1631 Filed 1-23-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

46 CFR Part 530

[Docket No. 86-20]

Truck Detention at the Port of New York; Increase in Penalty Charges

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission amends its truck detention rules at the Port of New York to increase penalty charges for truck delays at marine terminals from $4.00-per-15-minutes to $8.00-per-15-minutes.

EFFECTIVE DATE: Effective February 25, 1987.

FOR FURTHER INFORMATION CONTACT: Robert G. Drew, Director, Bureau of Tariffs, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, (202) 523-5796.

SUPPLEMENTARY INFORMATION: By Notice of Proposed Rulemaking published in the **Federal Register** on May 21, 1986 (51 FR 18622), the Commission proposed to amend its truck detention rules which apply to pickup and delivery of cargo by motor carriers at marine terminal facilities within the Port of New York (Port) (46 CFR 530). Specifically, the proposed rule would increase the penalty charges for pickup and delivery delays in §§ 530.7(f) and (g) from $4.00-per-15-minutes to $8.00-per-15-minutes.[1] The Commission's Notice also requested comment on whether there exists a continuing regulatory need for retention of the rule.

Comments on the proposed rule and its retention were submitted by the Bi-State Harbor Carriers Conference, the U.S. Atlantic & Gulf/Australia-New Zealand Conference, the Port Authority of New York and New Jersey, the New York Foreign Freight Forwarders and Brokers Association, Inc., NYTC, and the U.S. Department of Transportation (DOT).

All commenters, with the exception of DOT, supported continuation of the rule. These supporting commenters generally contended that: the rule has played a beneficial role in reducing ambiguities as to proper documentation and other procedures, and in eliminating disputes regarding the responsibility for and levels of detention charges; the rule has effectively encouraged the responsible parties to do their best to eliminate practices and procedures which resulted in the congestion conditions and detention claims that led to the original issuance of the rule;[2] and improved conditions at the Port are the result of the rule, and should not serve as justification for its elimination.

Those who commented on the proposed increase in penalty charges supported the change, stating that the current $4.00 charge is no longer appropriate, given the substantial increase in operating costs since the rule was promulgated.

DOT, while taking no position on the amount of penalty charges, asserted that the proposed rule appeared unwarranted in that the petition that prompted the rulemaking gave no indication of the frequency with which the current rule is invoked. DOT explained that there has been a shift to containerized cargo and cargo handling facilities at the Port, and that the rule is unnecessary for containerized cargo and is only rarely invoked for less-than-truckload cargo. DOT contended that its Reports to Congress on the Status of the Public Ports of the United States for 1982, 1983, and 1984 do not disclose any port congestion problems for general cargo moving through the Port, and it stated that if the comments on this proposed rule from affected parties confirm that the rule has, in fact, outlived its usefulness, the rule should be suspended or eliminated. According

[1] The proposed rule was issued in response to a petition filed by the New York Terminal Conference (NYTC) (50 FR 53012), which requested the Commission to amend its rules to increase the subject penalty charges to $8.00-per-15-minutes.

[2] The original rule was the subject of Docket No. 72-41—*Truck Detention at the Port of New York.* A final rule in that proceeding was published in the **Federal Register** of November 10, 1975 (40 FR 52385), and, after several postponments, the rule became fully effective on July 5, 1976.

to DOT, suspension and ultimate elimination of the rule, under those circumstances, would appear consistent with the declared purpose of the Shipping Act of 1984, 46 U.S.C. app. 1701–1720, to minimize government intervention and regulatory costs associated with the common carriage of goods by water in the foreign commerce of the United States.

Although DOT argued against retention of the rule based primarily on its information as the lack of port congestion problems in recent years, its position was contingent upon receipt of similar comments from the industry favoring elimination of the rule. The general support for retaining the rule voiced by industry commenters and discussed below would, therefore, appear to temper DOT's suggested elimination.

The industry representatives who commented on this matter support the continuation of the rule, and did not dispute either the merit of an increase in penalty charges or the actual amount proposed. The industry perceives a need for continued Commission involvement in this area as a steadying influence to avoid the congestion problems of the past and to eliminate disputes and ambiguities. Certain comments suggested that the rule has been the catalyst for the reduction of the Port's congestion problems, and has ensured an appropriate level of cooperation and coordination among the relevant parties.

Continuation of the rule with the increased penalty charges appears to serve a valid regulatory purpose. At the same time, such continuation would not be an unnecessary intrusion by the Commission in the commercial arena, and would not unduly increase the operating costs of the industry. Instead, it would continue to allow a marketplace consensus to dictate the industry practice and appropriate level of penalty charges. The Commission's role would be to publish the applicable rules in a format which the industry is accustomed to and with which it is apparently satisfied. The rules appear to create no compliance burden on the affected parties, and have minimal impact on agency costs or use of resources. Accordingly, the Commission is adopting the proposed increase as a final rule.

The Commission has determined that this rule is not a "major rule" as defined in Executive Order 12291, dated February 17, 1981, because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographical region; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovations, or on the ability of United States-based enterprises to compete in domestic or export markets.

The Chairman of the Federal Maritime Commission certifies pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), that this rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units or small government organizations.

The Paperwork Reduction Act, 44 U.S.C. 3501–3502, does not apply to this Notice of Final Rulemaking because the amendments to Part 530 of Title 46, Code of Federal Regulations, do not impose any additional reporting, recordkeeping, or collection of information requirements on members of the public which require the approval of the Office of Management and Budget.

List of Subjects in 46 CFR Part 530

Freight, Harbors, Maritime carriers, Motor carriers, Penalties, Reporting and recordkeeping requirements.

PART 530—[AMENDED]

Therefore, for the reasons set forth above, Part 530 of Title 46, Code of Federal Regulations, is amended as follows:

1. The authority Citation to Part 530 is revised to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 816, 841a, 1709 and 1716.

§ 530.7 [Amended]

2. In paragraphs (f)(1), (f)(2) and (g) of § 530.7, the "$4.00-per-15-minutes" penalty charge is increased to "$8.00-per-15-minutes."

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 87–1656 Filed 1–23–87; 8:45 am]

BILLING CODE 6730–01–M

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46 CFR Part 568

[Docket No. 86–26]

Self-Policing Requirements for Agreements Under the Shipping Act, 1916

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: This action removes Part 568 from Title 46, Code of Federal Regulations. Part 568 presently imposes detailed self-policing procedures and requirements on conference and other rate agreements in the domestic offshore trades. The absence of malpractices or other abuses by the conference system in these trades has eliminated the need for these regulations.

EFFECTIVE DATE: January 26, 1987.

FOR FURTHER INFORMATION CONTACT: Wm. Jarrel Smith, Jr., Director, Bureau of Agreements & Trade Monitoring, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, (202) 523–5787.

SUPPLEMENTARY INFORMATION: The Commission published a notice of proposed rulemaking for the removal of Part 568 in the **Federal Register** of October 8, 1986 (51 FR 36034). Part 568 sets forth detailed self-policing requirements for agreements subject to the Shipping Act, 1916 (1916 Act), 46 U.S.C. app. 801–842, including the requirement that such agreements establish independent policing authorities. These regulations were initially adopted to ensure that agreements in the foreign commerce of the United States complied with the requirement of section 15 of the 1916 Act, 46 U.S.C. app. 814, that they be adequately policed. However, with the enactment of the Shipping Act of 1984, 46 U.S.C. app. 1701–1720, agreements in the foreign commerce of the United States are no longer subject to the requirement and the 1916 Act has been made applicable solely to the domestic offshore trades. As a result, those few agreements which exist in the domestic offshore trades must comply with Part 568, even though doing so may be prohibitively expensive and serve no clear regulatory purpose.

Comments in response to the rulemaking notice were filed by: (1) The Department of Transportation (DOT), (2) the Pacific Coast/American Samoa Rate Agreement (PCASRA), (3) the Guam Rate Agreement (GRA), (4) Sea-Land Service, Inc. (Sea-Land), and (5) the Puerto Rico Maritime Shipping Authority (PRMSA). DOT, PCASRA, and GRA support removal of Part 568 on the ground that it no longer serves a valid regulatory purpose. Sea-Land and PRMSA also favor removal, but urge clarification of Commission policy with regard to policing requirements after removal. Specifically, Sea-Land requests that the Commission "acknowledge the right of agreement members to agree upon adequate self-policing procedures and include such provisions in

agreements filed for approval pursuant to section 15 of the 1916 Act." With regard to future policy for evaluating the adequacy of policing, PRMSA would like the Commission "to give the parties to covered agreements some assistance in judging what is acceptable for the purpose of neutral body policing arrangements, even if it is only a reiteration of the principal elements of Part 568 or a statement that the standards of former Part 568 will be the starting point of the Commission's examination."

The removal of Part 568 does not in any way affect the statutory duty of any agreement to establish adequate self-policing procedures. Since such procedures must be agreed upon, they must also be submitted to the Commission for approval.

PRMSA's request seems to suggest that the Commission reestablish the neutral body requirements of Part 568 by stating that this will be the standard by which the adequacy of policing will be evaluated. However, such a position would be contrary to the basic purpose for removing Part 568 in the first place, i.e., to relieve agreements in the domestic offshore trades from the burden of maintaining elaborate policing systems. As indicated above, every agreement subject to the section 15 policing requirement must demonstrate its compliance with that requirement by describing its self-policing procedures in its agreement. However, whatever system is adopted will initially be left to the discretion of the parties. The Commission will not impose specific self-policing requirements on any agreement except possibly when, after a full investigation, the existing scheme is found to constitute "inadequate policing" of the agreement's obligations.

The Commission has determined that the removal of Part 568 is not a "major rule" as defined in Executive Order 12291 because it will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) a significant adverse effect on competition, employment, investment, productivity, innovations, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, it is certified that the removal of Part 568 from Title 46 will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units and small governmental jurisdictions.

List of Subjects in 46 CFR Part 568

Antitrust, Contracts, Maritime carriers, Reporting and recordkeeping requirements, Rates.

PART 568—[REMOVED]

Therefore, pursuant to 5 U.S.C. 553 and sections 14, 15, 16, 17, 18(a), 21, 35 and 43 of the Shipping Act, 1916, 46 U.S.C. app. 812, 814, 815, 816, 817(a), 820, 833(a) and 841(a), Part 568 of Title 46, Code of Federal Regulations, is removed.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 87–1657 Filed 1–23–87; 8:45 am]

BILLING CODE 6730–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1152

[Ex Parte No. 274 (Sub-No. 11)]

Abandonment Regulations; Costing

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: At 50 FR 3002 (1–23–85) the Commission proposed modifications to its regulations in 49 CFR Part 1152, Subpart D which set forth standards for determining costs, revenue, and return on value in railroad abandonment proceedings. In this decision those regulations are modified to: (1) Combine in a single section and provide a uniform method for computing all "investment costs," *i.e.*, return on investment—rail cars and locomotives, and opportunity costs; (2) provide a uniform rate of return (real cost of capital) for all investment cost computations; (3) expand the asset base for computing investment costs to include current income tax benefits and working capital; and (4) adopt for use in abandonment and subsidy proceedings certain procedures now used in the Regional Subsidy Standards, 49 CFR 1155 to: (a) allocate train supply and expense accounts on a combined car-mile/carload basis; (b) apportion locomotive fuel costs on the basis of fuel cost per locomotive unit hour data published by the General Managers Association and indexed to the current period; (c) adopt an improved method of adjusting off-branch and certain on-branch cost accounts for inflation; (d) adopt an improved method of developing off-branch costs for class II and III railroads; (e) clarify the regulations to assure that carriers do not include both an estimated administrative fee and actual administrative expenses in subsidy calculations; and (f) provide that avoidable costs of service on a branch will be just and reasonable and will not exceed those necessary for honest and efficient operation.The rules being adopted will allow for a more accurate determination of the financial burden of continued operation of a rail line scheduled for abandonment, with minimal inconvenience to individual railroads.

EFFECTIVE DATE: These modifications are effective on March 24, 1987.

FOR FURTHER INFORMATION CONTACT: Les Miller (202) 275–7618 or Tom Shick (202) 275–7972.

Additional information is contained in the Commission's full decision. To purchase a copy of the full decision contact T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289–4357 (D.C. Metropolitan area) or toll free (800) 424–5903.

SUPPLEMENTARY INFORMATION: This action will not significantly affect either the quality of the human environment or energy conservation. Nor will this rule have a significant economic impact on a substantial number of small entities. The general purpose of the changes is simply to permit a more accurate determination of the costs of rail operations in connection with rail abandonment and subsidy proceedings.

List of Subjects in 49 CFR Part 1152

Administrative practice and procedures, Railroads.

Dated: January 6, 1987.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley. Commissioner Andre dissented in part with a separate expression. Commissioner Lamboley dissented in part with a separate expression.

Noreta R. McGee,

Secretary.

Appendix

Part 1152, of Title 49 of the Code of Federal Regulations is amended as follows:

PART 1152—ABANDONMENT AND DISCONTINUANCE OF RAIL LINES AND RAIL TRANSPORTATION UNDER 49 U.S.C. 10903

1. In Part 1152 the authority citation continues to read:

Authority: 5 U.S.C. 553, 559, and 704; 16 U.S.C. 1247(d); 31 U.S.C. 9701; 45 U.S.C. 904

and 915; and 49 U.S.C. 10321, 10362, 10505, and 10903, et seq.

§ 1152.32 [Amended]

2. The introductory paragraph of § 1152.32 is amended by adding the following sentence after the second sentence: "The avoidable costs of providing freight service on a branch shall be just and reasonable, and shall not exceed those necessary for an honest and efficient operation."

3. The introductory text of paragraph (g) of § 1152.32 is amended by removing the phrase "plus the return on investment in freight cars" from the 4th sentence, and adding a period in its place.

4. Paragraph (g)(3)(ii) of § 1152.32 is removed and reserved for future use.

5. Paragraph (g)(3)(iii) of § 1152.32 is amended by removing the phrase "return on investment" from the first sentence, and adding the word "and" between "repairs" and "depreciation" in the first sentence.

6. Paragraph (h) of § 1152.32 is removed and reserved for future use.

7. Paragraph (k) of § 1152.32 is amended by adding the following sentence at the end of the paragraph: "Either method may be used, but not both."

8. Paragraph (n)(4) of § 1152.32 is revised and paragraph (n)(5) is added to read as follows:

* * * * *

(n) * * *

(4) Class II and Class III line-haul railroads shall calculate off-branch costs as follows (based on: the carrier's latest Form R–2 or R–3 filed with the ICC; the ICC's latest *Rail Carload Cost Scales*; and the carrier's own records):

(i) A Carrier that has only freight operations shall calculate the estimated system variable expenses by multiplying the total operating expenses by .78, the three-year composite variability ratio for all Class I railroads. If a carrier has passenger and freight service, the freight portion of the total estimated system variable expenses shall be calculated by multiplying the total estimated system variable expenses, calculated as above, by the ratio of freight related operating expenses to total railway operating expenses [freight related operating expenses divided by total railway operating expenses].

(ii) The total number of revenue carload terminal handlings shall be determined from company records [originating and terminating (local) revenue carloads multiplied by 2, plus originating or terminating and interchange (interline) revenue carloads].

(iii) The total number of revenue carload interchange handlings shall be determined from company records [bridge (interchange to interchange) revenue carloads multiplied by 2, plus revenue carloads that are originated or terminated and interchanged (interline)].

(iv) The average load per car shall be determined from company records [ton-miles-revenue freight, divided by loaded freight car-miles].

(v) The ratios employed to separate the estimated system variable expenses between interchange, terminal and line-haul operations are calculated as follows:

(A) Theoretical interchange expenses are calculated by multiplying the number of revenue carload interchange handlings, paragraph (n)(4)(iii) of this section, by the interchange variable cost per carload for other than box, unequipped, refrigerator, tank and TOFC cars (ICC *Rail Carload Cost Scales,* Table 12, Line 6 or 14, appropriate region, multiplied by 100).

(B) Theoretical terminal carload expenses are calculated by multiplying the number of revenue carload terminal handlings, paragraph (n)(4)(ii) of this section, by the average train variable terminal cost per carload for box-general service, equipped (one half of the terminal cost per carload ICC *Rail Carload Scales,* Table 3, appropriate region, line 2, col. (6)).

(C) Theoretical terminal lading expenses are calculated by multiplying the total terminal tons [terminal carload handlings, paragraph (n)(4)(ii) of this section, multiplied by average load per car, paragraph (n)(4)(iv) of this section] by the average train variable terminal cost per ton for box-general service, equipped [one half of the terminal cwt. cost, ICC *Rail Carload Cost Scales,* Table 3, appropriate region, line 2, col. (7), multiplied by 20].

(D) Theoretical line-haul car expenses are calculated by multiplying the carrier's loaded car-miles by the average train variable cost per car-mile excluding interchange, for box-general service, equipped [ICC *Rail Carload Cost Scales,* Table 3, appropriate region, Line 2, col. (4), minus Appendix B, appropriate region, Line 2, col. (4)].

(E) Theoretical line-haul lading expenses are calculated by multiplying the carrier's total ton-miles of revenue freight by the average train variable ton-mile cost for a box-general service, equipped [wt-mile cost, ICC *Rail Carload Cost Scales,* Table 3, appropriate region, Line 2, col. (5), multiplied by 20].

(F) Theoretical station clerical expenses are calculated by multiplying total revenue carload terminal handlings, paragraph (n)(4)(ii) of this section, by the variable station clerical cost per carload [one half of the station clerical cost per carload, ICC *Rail Carload Cost Scales,* Table 18, appropriate region, Line (2), multiplied by 100].

(G) Total theoretical system variable expenses are calculated by adding paragraph (n)(4)(v)(A) plus (n)(4)(v)(B) plus (n)(4)(v)(C) plus (n)(4)(v)(D) plus (n)(4)(v)(E) of this section.

(H) The ratio for interchange variable expenses is calculated by dividing total theoretical interchange variable expenses, paragraph (n)(4)(v)(A) of this section, by the total theoretical system variable expenses, paragraph (n)(4)(v)(G) of this section.

(I) The ratio for terminal variable expenses is calculated by dividing the total theoretical terminal variable expenses, paragraph (n)(4)(v)(B) plus (n)(4)(v)(C) of this section, by the total theoretical system variable expenses, paragraph (n)(4)(v)(G) of this section.

(J) The ratio for line-haul variable expenses is calculated by dividing total theoretical line-haul variable expenses, paragraph (n)(4)(v)(D) plus (n)(4)(v)(E) of this section, divided by the total theoretical system variable expenses, paragraph (n)(4)(v)(G) of this section.

(K) The ratio for station clerical variable expenses is calculated by dividing total theoretical station clerical variable expenses, paragraph (n)(4)(v)(F) above, by the total theoretical system variable expenses, paragraph (n)(4)(v)(G) above.

(vi) The carrier's total system variable expenses are separated as follows:

(A) Total interchange variable expenses are calculated by multiplying the total system variable expenses, paragraph (n)(4)(i) of this section, by the interchange variable expense ratio, paragraph (n)(4)(v)(H) of this section.

(B) Total terminal variable expenses are calculated by multiplying the total system variable expenses, paragraph (n)(4)(i) of this section, by the terminal variable expense ratio, paragraph (n)(4)(v)(I) of this section.

(C) Total line-haul variable expenses are calculated by multiplying the total system variable expenses, paragraph(n)(4)(i) of this section, by the line-haul variable expense ratio, paragraph (n)(4)(v)(J) of this section.

(D) Total station clerical variable expenses are calculated by multiplying the total system variable expenses, paragraph (n)(4)(i) of this section by the station clerical expense ratio, paragraph (n)(4)(v)(K) of this section.

(vii) The carrier's unit costs shall be determined as follows:

(A) The interchange cost per carload shall be calculated by dividing the total interchange variable expense, paragraph (n)(4)(vi)(A) above by the total number of interchange handlings, paragraph (n)(4)(iii) of this section.

(B) The terminal costs per carload shall be calculated by the total terminal variable expenses, paragraph (n)(4)(vi)(B) above, by the total number of terminal handlings, paragraph (n)(4)(ii) of this section.

(C) The line-haul cost per car-mile shall be calculated by dividing the total line-haul variable expenses, paragraph (n)(4)(vi)(C) of this section, by the total number of loaded car-miles.

(D) The modified terminal cost per carload shall be calculated by adding the interchange cost per carload, paragraph (n)(4)(vii)(A) of this section, to the station clerical cost per carload total station clerical variable expense, paragraph (n)(4)(vi)(D) of this section, divided by the total number of terminal handlings, paragraph (n)(4)(ii) of this section.

(viii) The interchange costs shall be calculated by multiplying the interchange cost per carload, paragraph (n)(4)(vii)(A) above, by the number of carloads of traffic interchanged with other railroads.

(ix) The terminal cost shall be calculated by multiplying the modified terminal cost per carload, paragraph (n)(4)(vii)(D) of this section, times the number of carloads which originated or terminated on the branch during the subsidy year. To this amount add the normal terminal cost per carload, paragraph (n)(4)(vii)(B) of this section, times the number of carloads which originated or terminated on the branch that are local to the railroad serving the branch.

(x) The line-haul costs shall be calculated by multiplying the line-haul cost per car-mile, paragraph (n)(4)(vii)(C) of this section, by the loaded car-miles generated off the branch by cars originated or terminated on the branch during the subsidy year.

(5) The railroad shall be entitled to recover the impact of inflation on off-branch costs that occur during the period between the calendar year which is used for developing subsidy year unit costs and the 12 month period covered by the subsidy agreement. Calendar year used in this section shall mean the January 1 to December 31 period used to develop unit costs that are applied to the subsidy year operations. The impact of inflation on off-branch costs shall be calculated as follows:

(i) The railroad shall determine the following calendar year items from its Annual Report Form R–1 that was used in developing unit costs for the subsidy year and company records, (Class II and Class III railroads shall adapt the procedure using similar data from Forms R–2 or R–3 or company records).

(A) Total, railroad's Salaries and Wages, [Schedule 410, col. (b)];

(B) U.S. Government old-age retirement and unemployment insurance taxes (including medicare and supplemental annuities), [Schedule 451, Section (B)];

(C) Employee Health and Welfare expenses, [company records];

(D) Transportation: Train Operations; Locomotive Fuel, Materials, tools, supplies and lubricants; plus Transportation: Yard Operations; Locomotive Fuel, Materials, tools, supplies, fuels, and lubricants, [Schedule 410, col. (c)];

(E) Transportation: Train Operations; Electric Power Purchased or Produced for Motive Power, Materials, tools, fuel and lubricants and Purchased Services; plus Transportation: Yard Operations; Electric Power, Purchased or Produced for Motive Power, Materials, tools, fuels and lubricants and Purchased Services, [Schedule 410, col. (c) and (d)];

(F) Equipment: locomotives; Repair and Maintenance, Materials, tools, supplies, fuels, and lubricants; Freight Cars; Repair and Maintenance, Materials, tools, supplies, fuels, and lubricants; plus Transportation; Train Operations; Train Inspection and Lubrication, Materials, tools, and supplies, fuels, and lubricants; Train Crews, Materials, tools, supplies, fuels, and lubricants; Servicing Locomotives, Materials, tools, supplies, fuels, and lubricants; plus Yard Operations; Switch Crews, Materials, tools, supplies, fuels, lubricants; Servicing Locomotives, Materials, tools and supplies, fuels, and lubricants, [Schedule 410, col. (c)];

(G) Railway Tax Accruals (excluding Federal Income Taxes and Payroll Taxes), [Schedule 451, Section (b)];

(H) Total operating expenses, freight portion, [Schedule 410, col. (f)];

(I) Total—All other operating expenses, paragraphs (n)(5)(i)(H) minus the sum of paragraphs (n)(5)(i)(A), (n)(5)(i)(B), (n)(5)(i)(C), (n)(5)(i)(D), (n)(5)(i)(E), and (n)(5)(i)(F).

(ii) The Railroad shall determine the following ratios:

(A) *Employee Compensation Update Ratio. (1)* The calendar year average straight-time compensation per hour is determined by: adding the total straight-time compensation for transportation employees to the total staight-time compensation for train and engine employees; divided by the total straight-time service hours for transportation employees plus the total straight-time service hours for train and engine employees, [ICC *Annual Report of Employees, Service and Compensation. Forms A and B*];

(*2*) The subsidy year average straight-time compensation per hour is determined by: adding the total straight-time compensation for transportation employees to the total straight-time compensation for train and engine employees, for the twelve months of the subsidy year; divided by the total straight-time service hours for transportation employees plus the total straight-time service hours for train and engine employees, for the twelve months of the subsidy year, [ICC *Monthly Report of Employees, Service and Compensation Forms A and B*];

(*3*) The Employee Compensation Update ratio is determined by dividing the subsidy year average straight-time compensation per hour, paragraph (n)(5)(ii)(A)(*2*); by the calendar year average straight-time compensation per hour, paragraph (n)(5)(ii)(A)(*1*) of this section.

(B) *Payroll Taxes Update Ratio.* (*1*) The calendar year employer contribution rate per hour is determined by: adding the employer maximum annual tax per employee for Railroad Retirement to the employer paid maximum annual tax per employee for Railroad Unemployment Insurance, [Bureau of the Actuary, U.S. Railroad Retirement Board]; divided by 2080, the average annual number of working hours per year. The quotient is added to the hourly rate for supplemental annuities, [National Railway Labor Conference];

(*2*) The subsidy year employer contribution rate per hour is determined by: multiplying the employer's monthly rate for Railroad Retirement and Railroad Unemployment Insurance by the maximum monthly individual employee's wage base, respectively, for the subsidy year, [Bureau of the Actuary, U.S. Railroad Retirement Board]; and dividing by 2080,the average annual number of working hours per year. The quotient is added to the hourly rate for supplemental annuities, [National Railway Labor Conference];

(*3*) The Payroll Taxes Update Ratio is determined by: dividing the subsidy year contribution rate per hour, paragraph (n)(5)(ii)(B)(*2*) by the calendar year contribution rate per hour, paragraph (n)(5)(ii)(B)(*1*) of this section.

(C) *Health and Welfare Costs Update Ratio. (1)* Calendar year Health and Welfare costs shall be determined by dividing total monthly costs for each month, company records, by the total employees, middle of the month count

for each month, [ICC *Monthly Report of Employees, Service, and Compensation, Forms A and B*]. The total Calendar year health and welfare costs is the sum of the twelve monthly average costs per employee developed in this subsection.

(*2*) Subsidy year Health and Welfare costs are determined by dividing total monthly costs for each month, company records, by total employees, middle of the month count, [ICC *Monthly Report of Employees, Service, and Compensation, Forms A and B*]. The total subsidy year health and welfare costs is the sum of the twelve monthly average costs per employee developed in this subsection.

(*3*) The Health and Welfare Costs Update Ratio is determined by: dividing the subsidy year costs per employee, paragraph (n)(5)(ii)(C)(*2*) by the calendar year costs per employee, paragraph (n)(5)(ii)(C)(*1*) of this section.

(D) [Reserved]

(E) *Fuel Cost Update Ratio.* (*1*) The calendar year average fuel cost per gallon is determined by: dividing the cost of Fuel, Diesel Oil, schedule 750, col. (b), by the number of gallons, Diesel Oil, consumed in freight, passenger and yard switching service, schedule 750, col. (b);

(*2*) The subsidy year average fuel cost per gallon is determined by: dividing the cost of fuel, diesel oil, company records, for the subsidy year, by the number of gallons, diesel oil consumed in freight, passenger and yard switching operations, company records, for the subsidy year.

(*3*) The Fuel Cost Update Ratio is determined by: dividing the subsidy year fuel cost per gallon, paragraph (n)(5)(ii)(E)(*2*) by the calendar year fuel cost per gallon, paragraph (n)(5)(ii)(E)(*1*) of this section.

(F) *Electric Power Cost Update Ratio.* (*1*) The calendar year cost per kilowatt hour is determined by: dividing the cost of electric kilowatt hours [schedule 750, col. (c)] by the kilowatt hours consumed by freight, passenger, and yard switching operations [schedule 750, col. (c)];

(*2*) The subsidy year cost per kilowatt hour is determined by: dividing the cost of electric kilowatt hours [company records], by the kilowatt hours consumed by freight, passenger, and yard switching operations [company records];

(*3*) The Electric Power Cost Ratio is determined by: dividing the subsidy year cost per kilowatt hour, paragraph (n)(5)(ii)(F)(*2*) by the calendar year cost per kilowatt hour, paragraph (n)(5)(ii)(F)(*1*) of this section.

(G) *Materials and Supplies Cost Update Ratio.* (*1*) The calendar year materials and supplies index is an average of the four calendar year quarterly indices [Association of American Railroads (AAR), Economics and Finance Department, series Quarterly Material, Price and Wages (QMPW), applicable region].

(*2*) The subsidy year materials and supplies ratio is an average of the four subsidy year quarterly indices [Association of American Railroads (AAR), Economics and Finance Department, Series Quarterly Material, Price, and Wages (QMPW), applicable region].

(*3*) The Materials and Supplies Cost Update Ratio is determined by: dividing the subsidy year ratio, paragraph (n)(5)(ii)(G)(*2*) by the calendar year ratio, paragraph (n)(5)(ii)(G)(*1*) of this section.

(iii) The Railroad shall determine the following subsidy year expense items:

(A) Total subsidy year salaries and wages [calendar year total railroad salaries and wages, paragraph (n)(5)(i)(A) multiplied by the Employee Compensation Update Ratio, paragraph (n)(5)(ii)(A)(*3*)].

(B) U.S. Government old-age retirement and unemployment insurance (including medicare and supplemental annuities), [calendar year U.S. Government old-age retirement and unemployment insurance (including medicare and supplemental annuities), paragraph (n)(5)(i)(B) multiplied by the Payroll Taxes Update Ratio, paragraph (n)(5)(ii)(B)(*3*)].

(C) Employee Health and Welfare Expenses [calendar year, Employee Health and Welfare expenses, paragraph (n)(5)(i)(C) multiplied by the Health and Welfare Costs Update Ratio, paragraph (n)(5)(ii)(C)(*3*)].

(D) Total employee compensation would be the sum of: the subsidy year total railroad's salaries and wages, paragraph (n)(5)(iii)(A) of this section; plus U.S. Government old age retirement and unemployment insurance (including medicare and supplemental annuties), paragraph (n)(5)(iii)(B) of this section; plus Employee Health and Welfare Expenses, paragraph (n)(5)(iii)(C) of this section.

(E) Transportation: Train Operations; Locomotive Fuel, Materials, tools, supplies, fuels, and lubricants; plus Transportation: Yard Operations: Locomotive Fuel, Materials, tools, supplies, fuels, and lubricants [calendar year expenses, paragraph (n)(5)(i)(D) multiplied by the Fuel Cost Update Ratio, paragraph (n)(5)(ii)(E)(*3*)].

(F) Transportation: Train Operations; Electric Power Purchased or Produced for Motive Power, Materials, tools, supplies, fuels, and lubricants and Purchased Services; plus Transportation: Yard operations: Electric Power Purchased or Produced for Motive Power, Materials, tools, supplies, fuels, and lubricants and Purchased Services [calendar year expenses, paragraph (n)(5)(i)(E) multiplied by the Electric Power Cost Update Ratio, paragraph (n)(5)(ii)(F)(*3*).

(G) Equipment: Locomotives; Repair and Maintenance, Materials, tools, supplies, fuels, and lubricants; Freight Cars; Repair and Maintenance, Materials, tools, supplies, fuels, and lubricants; plus Transportation: Train Operations; Train Inspection and Lubrication, Materials, tools, supplies, fuels, and lubricants; Train Crews, Materials, tools, supplies, fuels, and lubricants; Servicing Locomotives, Materials, tools, supplies, fuels, and lubricants; plus Transportation Yard Operations; Switch Crews, Materials, tools, supplies, fuels, and lubricants; Servicing Locomotives, Materials, tools, supplies, fuels, and lubricants, [calendar year expenses, paragraph (n)(5)(i)(F) multiplied by the Materials and Supplies Costs Update Ratio, Paragraph (n)(5)(ii)(G)(*3*)].

(H) Railway Tax Accruals (excluding Federal Income Taxes and Payroll taxes), [calendar year expenses, paragraph (n)(5)(i)(G) multiplied by 1.0].

(I) Total all other operating expenses, [Total calendar year all other operating expenses, paragraph (n)(5)(i)(I) multiplied by 1.0].

(iv) The railroad shall develop a composite index as follows:

(A) Total calendar year expenses [paragraph (n)(5)(i)(H) plus calendar year Railway Tax Accruals (excluding Income Taxes and Payroll Taxes), paragraph (n)(5)(i)(G)];

(B) Total subsidy year expenses [sum of paragraphs (n)(5)(iii)(D), (n)(5)(iii)(E), (n)(5)(iii)(F), (n)(5)(iii)(G), (n)(5)(iii)(H), and (n)(5)(iii)(I)].

(C) Composite Index [Total subsidy year expenses, paragraph (n)(5)(iv)(B), divided by total calendar year operating expenses, paragraph (n)(5)(iv)(A).

(v) The composite index, paragraph (n)(5)(iv)(C) above, shall be applied to the off-branch costs for twelve months of the subsidy year, as provided in § 1155.7(n) inflation. The difference between the off-branch costs as increased for inflation and the off-branch costs previously calculated by the railroad shall be included in the railroad's year-end Financial Status Report, as provided in § 1155.5(a).

* * * * *

(9) Paragraph (p) of § 1152.32 is amended by revising the second sentence as follows: "Opportunity costs

may be calculated in accordance with the methodology established in § 1152.34 of this part, or by using any other reasonable, fully-explained method."

(10) In § 1152.33, paragraphs (c)(1) (i) and (ii) are revised to read as follows:

§ 1152.33 Apportionment rules for the assignment of expenses to on-branch costs.

* * * * *

(c) *Transportation*-(1) *Train operations*-(i) *Engine Crews-Materials. Account 21–31–56; Train Crews-Materials, Account 21–31–57; Train Inspection and Lubrication-Salaries and Wages, Account 11–31–62; and Train Inspection and Lubrication-Materials, Account 21–31–62;* If the branch is served by a local/way or through train, the costs in these accounts shall be assigned to the branch on the weighted ratio of the loaded freight train cars on the branch to the total system loaded freight train cars, and the loaded and empty car-miles on the branch to the total system loaded and empty car-miles. This shall be calculated as follows:

(A) To determine the car-mile portion of these accounts,

(*1*) Multiply the total amounts in these accounts (from the R–1 Annual Report, Schedule 410) by 69 percent (the ratio of train-mile and running expenses from Rail Form A),

(*2*) Divide the amount in paragraph (c)(1)(i)(A)(*1*) of this section by the total system loaded and empty car-miles, and

(*3*) Multiply the car-mile unit cost factor from paragraph (c)(1)(i)(A)(*2*) of this section by the on-branch car-miles (loaded and empty).

(B) To determine the carload portion of these accounts.

(*1*) Multiply the total amounts in these accounts by 31 percent (the ratio of terminal expenses from Rail Form A),

(*2*) Divide the amount in paragraph (c)(1)(i)(B)(*1*) of this section by the total system carloads, and

(*3*) Multiply the carload unit cost factor from paragraph (c)(1)(i)(B)(*2*) of this section by the on branch carloads.

(C) To determine the total costs assignable to the branch for these accounts, add the amounts developed in paragraphs (c)(1)(i)(A)(*3*) and (c)(1)(i)(B)(*3*) of this section.

(ii) All accounts designated xx–31–67 shall be assigned to the branch in accordance with the following procedure. The dollar amounts used in the determination of locomotive fuel costs shall be based on data contained in the most recent publication issued by the General Managers Association (GMA) relating to the rental of locomotives. The total number of locomotive unit hours incurred by the locomotive(s) shall then be categorized according to the applicable GMA horsepower classification group. The fuel cost is derived from the Repairs and Supplies Expenses element of the locomotive rental rates published by the GMA. The fuel cost per locomotive unit hour shall be determined for each GMA horsepower classification group by multiplying the latest GMA fuel cost percentage by the Repairs and Supplies Expense per hour included in each group. The fuel cost update ratio is determined by using the indices for fuel from the Association of American Railroad's (AAR's) Railroad Cost Recovery Index (RCR). The indices shall be taken from the district of which the railroad is assigned by the Commission. The index for the current period is divided by the index of the period representative of the GMA publication to develop the fuel update ratio. The fuel cost per locomotive unit hour developed for each GMA horsepower group shall be multiplied by the fuel update ratio to determine the fuel cost per locomotive hour for each horsepower group. The updated fuel cost per locomotive unit hour for each applicable GMA group shall be multiplied by the number of locomotive unit hours incurred in serving the branch by locomotives of that GMA horsepower classification group. The total cost developed under this procedure for each horsepower classification shall be the locomotive fuel cost assignable to the branch line.

* * * * *

(11) Section 1152.34 is revised to read as follows:

§ 1152.34 Return on investment.

Return on investment shall be the sum of the return on investment—locomotives, return on investment—freight cars, and return on investment—road properties, each computed according to the procedures set forth in this section.

(a)(1) Return on investment—freight cars. Return on investment—freight cars shall be determined by multiplying the current values of each type of car developed in section 1152.32(g)(1) by one minus the ratio of accumulated depreciation to the total original cost investment. This will determine the net current value for each type of car. The net current value for each type of car will then be multiplied by the rate of return calculated in paragraph (d) of this section to obtain total return on investment for each type of car.

(2) The total return on investment in freight cars is calculated on a per day basis by dividing the total return on investment developed in paragraph (a)(1), for each type of car, by the total system car days for each type developed in § 1152.32(g)(1).

(3) The return on investment per car day developed in paragraph (a)(2) shall be applied to the total car days for each car type accumulated on the line segment for all traffic originated and/or terminated on the segment plus those freight cars that bridge the line segment which are attributed to time-mileage freight train cars.

(b) *Return on investment—locomotives.* Return on investment—locomotives shall be calculated for each type of classification of locomotive that is actually used to provide service to the line segment according to the following procedure:

(1) The current replacement cost for each type of locomotive used to serve the line segment shall be based on the most recent purchase of that particular type and size locomotive by the carrier indexed to the midpoint of the subsidy year or an amount quoted by the manufacturer. The amount must be substantiated. This unit cost shall be multiplied by 1 minus the ratio of total accumulated depreciation to original total cost of that type of equipment owned by applicant-carrier, as shown by company records.

(2) The rate of return used in the calculation of return on investment for locomotives shall be determined in accordance with the procedures set forth in paragraph (d) of this section.

(3) The annual return on investment for each category or type locomotive shall be calculated by multiplying the replacement cost determined in paragraph (b)(1) of this section by the rate of return determined in paragraph (b)(2) of this section.

(4) The return on investment for each type of locomotive shall be assigned to the line segment on a ratio of the locomotive unit hours on the segment to average locomotive unit hours per unit for each type of locomotive in the system. This ratio will be developed as follows:

(i) The carrier shall keep and maintain records of the number of hours that each type of locomotive incurred in serving the segment during the subsidy period.

(ii) The railroad shall develop the system average locomotive unit hours per unit for each of the following types of locomotives; yard diesel; yard-other; road diesel; and road-other.

(iii) The ratio applied to the return on investment is calculated by dividing the hours that each type or class of locomotive is used to serve the segment, as developed in paragraph (b)(4)(i), by the system average locomotive unit

hours per unit for the applicable type developed in paragraph (b)(4)(ii) of this section.

(5) The cost assigned to the segment for each type of locomotive shall be calculated by multiplying the annual return on investment developed in paragraph (b)(3) of this section by the ratio(s) developed in paragraph (b)(4) of this section.

(c) *Return on investment—road properties.* Return on investment—road properties shall be computed according to the following procedures:

(1) The investment base to which the return element shall apply shall be the sum of:

(i) The allowable working capital computed at 15 days on-branch cash avoidable costs (on branch avoidable costs less depreciation).

(ii) The amount of current income tax benefits resulting from abandonment of the line which would have been applicable to the period of the subsidy agreement (this information to be furnished by the railroad and subject to audit by the person offering the subsidy).

(iii) The net liquidation value for the highest and best use for non-rail purposes, of the rail properties on the line to be subsidized which are used and required for performance of the services requested by the persons offering the subsidy. This value shall be determined by computing the current appraised market value of such properties for other than rail transportation purposes, less all costs of dismantling and disposition of improvements necessary to make the remaining properties available for their highest and best use and complying with applicable zoning, land use, and environmental regulations. If rehabilitation has been performed along the line during any subsidy year and rehabilitation expenses have been paid by the subsidizer under 49 C.F.R. 1152.32(m)(2), the investment base shall exclude the increment to the net liquidation value of the line caused by the rehabilitation project.

(d) *Reasonable return.* A rail carrier shall furnish to the Commission, and to any financially responsible person considering making an offer of a rail service continuation payment, a substantiated statement showing its current cost of capital. The railroad's cost of capital shall be the current before-tax cost of capital, adjusted for inflation, weighted to the capital structure, and adjusted for the effects of the combined statutory Federal and State income tax rates. This rate of return, expressed as a percent, shall be calculated as follows:

(1) The railroad shall determine its permanent capital structure ratio for debt and equity capital such that the two numbers total 100 percent. This capital structure will be the actual capital structure of the railroad. If this calculation is not possible or also not representative because the railroad is part of a conglomerate, the debt-equity ratio from the Commission's latest Determination of Adequate Railroad Revenues will be used. However, if the debt-equity ratio for the railroad industry is used then the industry average equity and debt rate from the Commission's latest revenue adequacy finding must also be used in paragraphs (d)(2) and (d)(3) of this section.

(2) The current nominal cost of debt shall be determined by taking the average of all debt instruments (including bonds, equipment trust certificates, financial lease arrangements, *et cetera*) issued by the carrier in the most recent 12 month period. The current real cost of debt shall be determined in accordance with the following formula:

$r_d = [(1+n)/(1+i)]-1$ where r_d = current real cost of debt, n = the current nominal cost of debt, and i = annual rate of inflation, as projected by the most recent Gross National Product deflator published by the Department of Commerce, Bureau of Labor Statistics, or any other reasonable index of inflation. The debt cost calculated by this procedure is a before-tax rate and is not adjusted for income taxes.

(3) The current nominal after-tax cost of equity shall be an amount equal to that which a prudent investor would expect to earn through investment in the market place. The current real after-tax cost of equity shall be determined in accordance with the following formula:

$r_e = [(1+n)/(1+i)]-1$ where r_e = current real after-tax cost of equity, n = the nominal cost of equity, and i = the annual rate of inflation, as projected by the most recent Gross National Product deflator published by the Department of Commerce Bureau of Labor Statistics, or any other reasonable index of inflation. The current after tax real cost of equity is divided by 1 minus the combined statutory Federal and State income tax rates. This will develop the real cost of equity on a before-tax basis.

(4) The current real before-tax cost of debt is multiplied by the current percentage of debt to obtain a weighted before-tax real cost of current debt.

(5) The current real before-tax cost of equity is multiplied by the current percentage of equity to total capital to obtain a weighted real before-tax cost of current equity.

(6) The results of paragraphs (d)(4) and (d)(5) of this section are added together to determine current real cost of capital.

* * * * *

§ 1152.35 [Removed and reserved]

12. Section 1152.35 is removed and reserved for future use.

§ 1152.36 [Amended]

13. The chart that appears in § 1152.36 is amended as follows:

(a) Line 5(h) of the chart is removed and line 5(i) is redesignated as line 5(h) and line 5(j) is redesignated line 5(i).

(b) Lines 12 through 16 are revised to read as follows:

	Actual	Projected
12. Freight cars		
13. Locomotives		
14. Valuation of Road Properties (lines 14a through 14c)		
15. Rate of return		
16. Return on value—road properties (line 15 times line 14)		

(c) Lines 17 through 19 are added to read as follows:

17. Total return on value (Sum of lines 12, 13 and 16)		
18. Avoidable loss from operations (line 4 minus line 7)		
19. Estimated subsidy (line 4 minus lines 7, 11 and 17)		

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Proposed Rules

Federal Register
Vol. 52, No. 16
Monday, January 26, 1987

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 419

[Amdt. No. 2 Docket No. 3607S]

Barley Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby proposes to amend the Barley Crop Insurance Regulations (7 CFR Part 419), effective for the 1987 and succeeding crop years. The intended effect of this rule is to amend the Malting Barley Option amendment to such regulations to (1) change to an Actual Production History (APH) basis for insuring malting barley with separate record requirements for two-rowed and six-rowed barley; (2) define the length of time for providing acceptable records of production; (3) provide that contracted barley accepted by the company, or barley qualifying as contracted barley, will be used to determine indemnity without regard to unit; (4) provide an applicable price for indemnity computation if a fixed contract price cannot be determined; (5) provide that the Amendment will be continuous; and (6) clarify the type and variety of malting barley insured. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than February 25, 1987, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to Peter F. Cole, Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC, 20250, telephone (202) 447–3325..

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512.1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is December 1, 1991.

E. Ray Fosse, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increased in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprised to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

The present Malting Barley Option will not be available for the 1987 crop year. FCIC proposes that the amended Malting Barley Option contained herein as a Notice of Proposed Rulemaking shall substitute for the present option.

All present FCIC insureds who used the Malting Barley Option for the 1986 crop year have been notified that the present option is unavailable and that a new option will be available for the 1987 crop year.

FCIC proposes to amend the Malting Barley Option Amendment contained in the Barley Crop Insurance Regulations (7 CFR Part 419) in the following instances:

(1) Change to an Actual Production History (APH) basis for insuring malting barley with separate record requirements for two-rowed and six-rowed barley.

(2) Define the length of time for providing acceptable records of production.

(3) Provide that contracted barley accepted by the company, or barley qualifying as contracted barley, will be used to determine indemnity without regard to unit.

(4) Provide an applicable price for indemnity computation if a fixed contract price cannot be determined.

(5) Change the Malting Barley Option Amendment to a continuous agreement.

(6) Clarify the type and variety of malting barley insured.

For purposes of this action the Malting Barley Option Amendment is published in its entirety, including the changes itemized above and minor corrections to language and content for clarification.

FCIC is soliciting public comment on this proposed rule for 30 days after publication in the **Federal Register**. Written comments received pursuant to this rule will be available for public inspection in the Office of the Manager, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20205, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 419

Crop insurance; Barley

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby proposes to amend the Barley Crop Insurance Regulations (7 CFR Part 419), effective for the 1987 in the following instance:

PART 419—[AMENDED]

1. The authority citation for 7 CFR Part 419 continues to read as follows:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. 7 CFR 419.8(b) is amended by revising the Malting Barley Option Amendment to read as follows:

§ 419.8 Malting barley option amendment.

* * * * *

(b) * * *

U.S. DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Barley Crop Insurance Policy Malting Barley Option Amendment

(This is a continous Amendment. Refer to section 15 of the Barley Crop Insurance Policy)

Note:—False statements may subject you to criminal or civil fraud prosecution under various federal statutes.

Insured's Name

Contract No.

Address

Crop Year

Identification No.
SSN

Tax

It is hereby agreed to amend the Federal Crop Insurance Barley Policy under, and in accordance with, the following terms and conditions:

1. The Amendment must be submitted to us on or before the final date for accepting applications for the initial crop year in which you wish to insure your malting barley acreage under this Amendment.

2. You must have a Federal Crop Insurance Barley Policy ("Basic Policy") in force and have elected the highest price election.

3. You must provide acceptable records of your acreage and production for malting barley, by type or variety for the last three years in which malting barley was produced by you. These records will be used to establish your production guarantee.

4. All barley acreage in the county planted to a malting type or variety in which you have a share, will be insured as one unit under this Amendment unless we agree in writing to multiple units. All barley acreage of any non-malting type or variety, not under a malting barley contract, will be insured under the terms of the Basic Policy.

5. You must have a contract with a processor in the business of buying malting barley. The contract must be executed and binding on both you and the processor before the acreage report is due and show the quantity of contracted malting barley. A copy of all contracts must be submitted with the acreage report.

6. Your unit production guarantee under this Amendement is the leasser of:

a. Your share of the bushel amount of your malting barley contract; or

b. Your production guarantee at the 75% coverage level for all insurable malting barley acreage.

7. Your production guarantee multiplied by the difference between the malting barley contract price[1] and the price election under the Basic Policy will be your dollar amount of insurance for the unit.

8. Your premium will be your dollar amount of insurance for malting barley multiplied by the average basic barley rate for your insurable malting barley acreage multiplied by the applicable malting barley preimum factor contained in the acturial table.

9. All malting barley production from insurable malting barley acreage will be used to determine your indemnity without regard to the unit arrangement provided under the Basic Policy.

10. The indemnity for each malting barley unit under this amendment will be determined by:

a. Subtracting from your production guarantee under this Amendment, your share of the production of malting barley to count; and

b. Multiplying that result by the difference between the contract price and the highest price election under the basic Policy.

11. a. The production of malting barley to count (in bushels) will include all:

(1) Mature barley production accepted by the processor;

(2) mature barley which meets the standards contained in 11.b. below;

(3) Mature barley which fails to qualify under (1) or (2) because of uninsurable causes; and

(4) Appraised production.

b. The standards referred to in 11.a. above are: (1) Two-rowed Malting Barley production is considered acceptable if it has a test weight of at least 48 pounds per bushel; contains at least 93 percent sound barley, no more than 10 percent thin barley or 2 percent black barley; and is not smutty, garlicky, or ergoty.

(2) Six-rowed Malting Barley production is considered acceptable if it has a test weight of at least 43 pounds per bushel; contains at least 90 percent sound barley, no more than 15 percent thin barley or 2 percent black barley; and is not smutty, garlicky, or ergoty.

c. All grading factors in 11.b. above must be determined by a grain grader licensed under the United States Grain Standards Act from samples obtained by a licensed sampler or a loss adjuster. Any production not accepted by a processor, which is not graded, will be considered malting barley to count.

d. Harvested production of malting barley to count will be reduced .12 percent for each .1 percentage point of moisture in excess of 13.0 percent for any mature malting barley production.

12. All provisions of the Basic Policy not in conflict with this Amendment are applicable.

13. Meaning of Terms, as used in this Amendment:

a. "Processor" means any business enterprise regularly engaged in the malting of barley or brewing malt beverages for human consumption.

b. "Two-rowed Malting Barley" means barley as defined in the Official United States Standards for Barley.

c. "Six-rowed Malting Barley" means barley as defined in the Offical United States Standards for Barley.

d. "Insurable malting barley acreage" means all acreage insurable under the Basic Barley Policy planted to any type and/or variety of malting barley.

Collection of Information and Data (Privacy Act)

To the extent that the information requested herein relates to the information supplier's individual capacity as opposed to the supplier's entrepreneurial (business) capacity, the following statements are made in accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552(a)). The authority for requesting information to be furnished on this form is the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*) and the Federal Crop Insurance Corporation Regulations contained in 7 CFR Chapter IV.

The information requested is necessary for the Federal Crop Insurance Corporation FCIC) to process this form to provide insurance, determine eligibility, determine the correct parties to the agreement or contract, determine and collect premiums, and pay indemnities. Furnishing the Tax Identification Number (Social Security Number) is voluntary and no adverse action will result from the failure to furnish that number. Furnishing the information required by this form, other than the Tax Identification (Social Security) Number, is also voluntary; however, failure to furnish the correct, complete information requested may result in rejection of this form, rejection of or substantial reduction in any claim for indemnity, ineligibility for insurance, and a unilateral determination of the amount of premium due. (See the front of this form for information on the consequences of furnishing false or incomplete information).

The information furnished on this form will be used by federal agencies FCIC employees, and contractors who require such information in the peformance of their duties. The information may be furnished to: FCIC contract agencies, employees and loss adjusters; reinsured companies; other agencies within the United States Department of Agriculture; the Internal Revenue Service; the Department of Justice, or other federal or State law enforcement agencies; credit reporting agencies and collection agencies; and in response to judicial orders in the course of litigation.

Done in Washington, DC on December 12, 1986.

Edwards Hews,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 87-1592, Filed 1-23-87; 8:45 am]

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[1] If a specific contract price cannot be determined from the contract by the acreage reporting date, the malting barley contract price will be the lesser of the price specified in the acturial table for that purpose or the price later determined in accordance with the formula in the contract.

7 CFR Part 452

[Docket No. 3603S]

Safflower Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to add a new Part 452 to Chapter IV of Title 7, Code of Federal Regulations, prescribing procedures for insuring safflowers effective for the 1987 and succeeding crop years. The intended effect of this rule is to provide insurance for safflowers in counties approved by the Board of Directors of FCIC. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than February 25, 1987, to be assured of consideration.

ADDRESS: Written comments on this proposed rule should be sent to Peter F. Cole, Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC, 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC, 20250, telephone (202) 447–3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512–1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is November 1, 1991.

E. Ray Fosse, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

FCIC is soliciting comment on this proposed rule for 30 days after publication in the **Federal Register.** Written comments made pursuant to this rule will be available for public inspection in the Office of the Manager, Federal crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, DC, 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 452

Crop insurance; Safflower.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to add a new Part 452 in Chapter IV of Title 7 of the, Code of Federal Regulations to be known as 7 CFR Part 452-Safflower Crop Insurance Regulations, effective for the 1987 and succeeding crop years. Part 452 is proposed to read as follows:

PART 452—SAFFLOWER CROP INSURANCE REGULATIONS

Subpart—Regulations for the 1987 and Succeeding Crop Years

Sec.

Authority: Secs. 506, 516, Pub.L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

§ 452.1 Availability of safflower crop insurance.

Insurance shall be offered under the provisions of this subpart on the insured crop in counties within the limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended, (the Act). The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. The insurance is offered through two methods. First, the Corporation offers the contract contained in this part directly to the insured through Agents of the Corporation. Those contracts are specifically identified as being offered by the Federal Crop Insurance Corporation. Second, companies reinsured by the Corporation offer contracts containing substantially the same terms and conditions as the contract set out in this part. No person may have in force more than one contract on the same crop for the crop year, whether insured by the Corporation or insured by a company which is reinsured by the Corporation. If a person has more than one contract under the Act outstanding on the same crop for the same crop year, all such contracts will be voided for that crop year but the person will still be liable for the premium on all contracts unless the person can show to the satisfaction of the Corporation that the multiple contract insurance was inadvertent and without the fault of the insured. If the multiple contract insurance is shown to be inadvertent and without the fault of the insured, the contract with the earliest application will be valid and all other contracts on that crop for that crop year will be cancelled. No liability for indemnity or premium will attach to the contracts so cancelled. The person must repay all amounts received in violation of this section with interest at the rate contained in the contract for delinquent premiums. An insured whose contract with the Corporation or with a Company reinsured by the Corporation under the Act has been terminated because of violation of the terms of the contract is not eligible to obtain multi-peril crop insurance under the Act with the Corporation or with a company reinsured by the Corporation unless the insured can show that the default in the prior contract was cured prior to the sales closing date of the contract applied for or unless the insured can show that the termination was improper and should not result in subsequent ineligibility. All applicants for insurance under the Act must advise the agent, in writing, at the time of application, of any

previous applications for a Contract under the Act and the present status of the applications or contracts.

§ 452.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for safflowers which will be included in the actuarial table on file in the applicable service offices for the county and which may be changed from year to year.

(b) At the time the application for insurance is made, the applicant will elect a coverage level and price at which indemnities will be computed from among those levels and prices set by the actuarial table for the crop year.

§ 452.3 OMB control numbers.

OMB control numbers are contained in Subpart H of Part 400, Title 7 CFR.

§ 452.4 Creditors.

An interest of a person in an insured crop existing by vertue of a lien, mortgage, garnishment, levy, execution, bankruptcy, involuntary transfer or other similar interest shall not entitle the holder of the interest to any benefit under the contract.

§ 452.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the safflower crop insurance contract, whenever: (a) An insured under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation: (1) Is indebted to the Corporation for additional premiums; or (2) has suffered a loss to a crop which is not insured or for which the insured is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured believed to be insured, or believed the terms of the insurance contract to have been complied with or waived; and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $100,000, finds that: (1) An agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice; (2) said insured relied thereon in good faith; and (3) to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured shall be granted relief the same as if otherwise entitled thereto. Requests for relief under this section must be submitted to the Corporation in writing.

§ 452.6 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the safflower crop as provided in the policy. The contract shall consist of the application, the policy, and the county actuarial table. Changes made in the contract shall not affect its continuity from year to year. The forms referred to in the contract are available at the applicable service offices.

§ 452.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation must be made by any person to cover such person's share in the safflower crop as landlord, owner-operator, or tenant if the person wishes to participate in the program. The application shall be submitted to the Corporation at the service office on or before the applicable sales closing date on file in the service office.

(b) The Corporation may discontinue the acceptance of any application or applications in any county upon its determination that the insurance risk is excessive. The Manager of the Corporation is authorized in any crop year to extend the sales closing date for submitting applications in any county, by placing the extended date on file in the applicable service offices and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the extended period. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1987 and succeeding crop years, a contract in the form provided for in this subpart will come into effect as a continuation of a safflower contract issued under such prior regulations, without the filing of a new application.

(d) The application for the 1987 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37, 400.38) and may be amended from time to time for subsequent crop years. The provisions of the Safflower Crop Insurance Policy for the 1987 and succeeding crop years are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Safflower—Crop Insurance Policy

(This is a continuous contract. Refer to section 15.)

Agreement to Insure: We will provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us," and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions;

(2) Fire;

(3) Insects (including insect infestation);

(4) Plant disease;

(5) Wildlife;

(6) Earthquake;

(7) Volcanic eruption; or

(8) If applicable, failure of the irrigation water supply due to an unavoidable cause occurring after the beginning of planting;

unless those causes are excepted, excluded, or limited by the actuarial table or § 9.e.(8).

b. We will not insure against any loss of production due to:

(1) The neglect, mismanagement, or wrongdoing by you, any member of your household, your tenants, or employees;

(2) The failure to follow recognized good safflower farming practices or the grower provisions of the safflower contract;

(3) The impoundment of water by any governmental, public, or private dam or reservior project;

(4) The failure or breakdown of irrigation equipment or facilities;

(5) The failure to follow recognized good safflower irrigation practices; or

(6) Any cause not specified in subsection 1.a. as an insured loss.

2. Crop, acreage, and share insured.

a. The crop insured will be safflower seed ("safflower") planted for harvest, grown on insured acreage, and for which a guarantee and premium rate are set by the actuarial table.

b. The acreage insured for each crop year will be safflowers planted on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we elect.

c. The insured share is your share as landlord, owner-operator, or tenant in the insured safflowers at the time of planting. However, only for the purpose of determining the amount of indemnity, your share will not exceed your share on the earlier of:

(1) The time of loss; or

(2) The beginning of harvest.

d. We do not insure any acreage:

(1) Which is destroyed, it is practical to replant to safflowers, and such acreage is not replanted;

(2) If the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(3) Which is irrigated and an irrigated practice is not provided by the actuarial table unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;

(4) Initially planted after the final planting date contained in the actuarial table unless you agree, in writing, on our form to coverage reduction;

(5) Of volunteer safflowers;

(6) Planted to a type or variety of safflowers not established as adapted to the area or excluded by the actuarial table;

(7) Planted with a crop other than safflowers;

(8) Planted for the development or production of hybrid seed or planted for experimental purposes; or

(9) On which safflowers, sunflowers, dry beans, soybeans, mustard, rapeseed, or lentils have been grown the preceding crop year.

e. If insurance is provided for an irrigated practice, you must report as irrigated only the acreage for which you have adequate facilities and water, at the time of planting, to carry out a good safflower irrigation practice.

f. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

3. Report of Acreage, Share, and Practice.

You must report on our form:

a. All the acreage of safflowers planted in the county in which you have a share;

b. The practice; and

c. Your share at the time of planting.

You must designate separately any acreage that is not insurable. You must report if you do not have a share in any safflowers planted in the county. This report must be submitted annually on or before the reporting date established by the actuarial table. All indemnities may be determined on the basis of information you submit on this report. If you do not submit this report by the reporting date, we may elect to determine, by unit, the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production guarantees, coverage levels, and prices for computing indemnities.

a. The production guarantees, coverage levels, and prices for computing indemnities are contained in the actuarial table.

b. Coverage level 2 will apply if you do not elect a coverage level.

c. You may change the coverage level and price election on or before the sales closing date set by the actuarial table for submitting applications for the crop year.

d. You must furnish a report of production to us for the previous crop year prior to the sales closing date for the subsequent crop year as established by the actuarial table. If you do not provide the required production report, we will assign a yield for the crop year for which the report is not furnished. The production report or assigned yield will be used to compute your production history for the purpose of determining your guarantee for the subsequent crop year. The yield assigned by us will be 75 percent of the yield assigned for the purposes of determining your guarantee for the present crop year. If you have filed a claim for the previous crop year, the yield determined in adjusting your indemnity claim will be used as your production report.

5. Annual premium.

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting.

b. Interest will accrue at the rate of one and one-fourth percent (1–¼%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

Insurance attaches when the safflowers are planted and ends at the earliest of:

a. Total destruction of the safflowers:

b. Harvest;

c. Final adjustment of a loss; or

d. October 31 of the calendar year in which the safflowers are normally harvested.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) During the period before harvest, the safflowers on any unit are damaged and you decide not to further care for or harvest any part of them:

(b) You want our consent to put the acreage to another use; or

(c) After consent to put acreage to another use is given, additional damage occurs.

(2) Insured acreage may not be put to another use until we have appraised the safflowers and given written consent. We will not consent to another use until it is too late to replant. You must notify us when such acreage is put to another use.

(3) You must give us notice of probable loss at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(4) If probable loss is determined within 15 days prior to or during harvest, immediate notice must be given and a representative sample of the unharvested safflowers (at least 10 feet wide and the entire length of the field) must remain unharvested for a period of 15 days from the date of notice, unless we give you written consent to harvest the sample.

(5) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, you must give us notice not later than 10 days after the earliest of:

(a) total destruction of the safflowers on the unit;

(b) harvest of the unit; or

(c) October 31 of the crop year.

b. You must obtain written consent from us before you destroy any of the safflowers which are not to be harvested.

c. We may reject any claim for indemnity if you fail to comply with any of the requirements of this section or section 9.

9. Claim for indemnity.

a. Any claim for indemnity on a unit must be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the safflowers on the unit;

(2) Harvest of the unit; or

(3) October 31 of the crop year.

b. We will not pay any indemnity unless you:

(1) Establish the total production of the safflowers on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting from that result the total production of safflowers to be counted (see subsection 9.e.);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this result by your share.

d. If the information reported by you under section 3 of this policy results in a lower premium than the actual premium determined to be due, the production guarantee on the unit will be computed on the information reported, but all production from insurable acreage, whether or not reported as insurable, will count against the production guarantee.

e. The total production (in pounds) to be counted for a unit will include all harvested and appraised production.

(1) Mature safflower production which otherwise is not eligible for quality adjustment will be reduced .12 percent for each .1 percentage point of moisture in excess of 8.0 percent.

(2) Mature safflower production will be adjusted for quality when, due to insurable causes, such production has a test weight below 36 pounds per bushel or has seed damage in excess of 25 percent as determined by a grader licensed to grade safflowers by the Federal Grain Inspection Service.

(3) Mature safflower production which is eligible for quality adjustment, .due to insurable causes, will be adjusted by:

(a) Dividing the value per pound of damaged safflowers by the average market price per pound for undamaged safflowers; and

(b) Multiplying the result by the number of pounds of such safflowers.

For the purpose of the insurance, the applicable price for damaged safflowers will be not less than fifty percent of the average market price for undamaged safflowers.

(4) Any harvested production from other volunteer plants growing in the safflowers will be counted as safflowers on a weight basis.

(5) Appraised production to be counted will include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes;

(b) Not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause; and

(c) Any appraised production on unharvested acreage.

(6) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use will be considered production unless such acreage is:

(a) Not put to another use before harvest of safflowers becomes general in the county and reappraised by us;

(b) Further damaged by an insured cause and reappraised by us; or

(c) Harvested.

(7) The amount of production of any unharvested safflowers may be determined on the basis of field appraisals conducted after the end of the insurance period.

(8) If you elect to exclude hail and fire as insured causes of loss and the safflowers are damaged by hail or fire, appraisals will be made in accordance with Form FCI-78, "Request to Exclude Hail and Fire."

f. You must not abandon any acreage to us.

g. Any suit against us for an indemnity must be brought in accordance with the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial of the claim is received by you.

h. An indemnity will not be paid unless you comply with all policy provisions.

i. We have a policy of paying your indemnity within 30 days of our approval of your claim, or entry of a final judgment against us. We will, in no instance, be liable for the payment of damages, attorney's fees, or other charges in connection with any claim for indemnity, whether we approve or disapprove such claim. We will, however, pay simple interest computed on the net indemnity ultimately found to be due by us or by a final judgment from and including the 61st day after the date you sign, date, and submit to us the properly completed claim for indemnity form, if the reason for our failure to timely pay is not due to your failure to provide information or other material necessary for the computation or payment of the indemnity. The interest rate will be that established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and published in the Federal Register semiannually on or about January 1 and July 1. The interest rate to be paid on any indemnity will vary with the rate announced by the Secretary of the Treasury.

j. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the crop is planted for any crop year, any indemnity will be paid to the persons determined to be beneficially entitled thereto.

k. If you have other fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of the amount:

(1) Of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) By which the loss from fire exceeds the indemnity paid or payable under such other insurance.

For the purpose of this subsection, the amount of loss from fire will be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract. Such voidance will be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right to indemnity on insured share.

If you transfer and part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee will have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may assign to another party your right to an indemnity for the crop year, only on our form and with our approval. The assignee will have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such right. If we pay you for your loss, then your right of recovery will at our option belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and access to farm.

You must keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale, or other disposition of all safflowers produced on each unit, including separate records showing the same information for production from any uninsured acreage. Failure to keep and maintain such records may, at our option, result in cancellation of the contract prior to the crop year to which the records apply, assignment of production to units by us, or a determination that no indemnity is due. Any person designated by us will have access to such records and the farm for purposes related to the contract.

15. Life of Contract: Cancellation and termination.

a. This contract will be in effect for the crop year specified on the application and may not be canceled by you for such crop year. Thereafter, the contract will continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract will terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due if deducted from:

(1) An indemnity, will be the date you sign the claim; or

(2) Payment under another program administered by the United States Department of Agriculture, will be the date both such other payment and setoff are approved.

d. The cancellation and termination dates are April 15.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissovlved, the contract will terminate as of the date of death, judicial declaration, or dissolution. If such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

f. The contract will terminate if no premium is earned for 3 consecutive years.

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you are deemed to have elected. All contract changes will be available at your service office by December 31 preceding the cancellation date. Acceptance of changes will be conclusively presumed in the absence of notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of safflower crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us. The Actuarial Table is available for public inspection in your service office, and shows the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable and uninsurable acreage, and related information regarding safflower insurance in the country.

b. "ASCS" means the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture.

c. "Country" means:

(1) The county shown on the application;

(2) Any additional land located in a local producing area bordering on the county, as shown by the actuarial table; and

(3) Any land identified by the same ASCS farm serial number for the county but physically located in another county within the state.

d. "Crop year" means the period within which the safflowers are normally grown and is designated by the calendar year in which the safflowers are normally harvested.

e. "Harvest" means the completion of combining or threshing of safflowers on the unit.

f. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

g. "Insured" means the person who submitted the application accepted by us.

h. "Person" means an individual, partnership, association, corporation, estate, trust, or other legal entity, and wherever applicable, a State or a political subdivision or agency of a State.

i. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

j. "Tenant" means a person who rents land from another person for a share of the safflowers or a share of the proceeds therefrom.

k. "Unit" means all insurable acreage of safflowers in the county on the date of planting for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the safflowers on such land will be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office. Units will be determined when the acreage is reported. Errors in reporting units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

l. "Value per pound of damaged safflower seeds" means the value for the low test weight (below 36 pounds per bushel) or seed damage in excess of 25 percent in the safflower seeds.

18. Descriptive Headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy will be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with the Appeal Regulations, (7 CFR Part 400-Subpart J).

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Done in Washington, DC, on January 16, 1987.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 87-1593 Filed 1-23-87; 8:45 am]

BILLING CODE 3410-08-M

Farmers Home Administration

7 CFR Parts 1924, 1941, 1951, 1965

Deferral, Reamortization, and Reclassification of Distressed Farmer Program Loans (ST Loans) for Softwood Timber Production

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to amend its regulations to provide for the deferral, reamortization, and reclassification of distressed Farmer Program loans as defined in those regulations in conjunciton with the production of softwood timber on marginal land as provided for in Section 1254 of the Food Security Act of 1985, (Pub. L. 99-198). This action is needed to assist financially distressed FmHA borrowers to improve their financial condition and remove marginal land, including highly erodible land, from the production of other agricultural commodities. The intended effect is to assist these borrowers in developing a positive cash flow for their farming operation, increase the future production of softwood timber, take marginal land out of agricultural production, and assist in the control of soil erosion.

DATES: Comments must be submitted on or before February 25, 1987.

ADDRESSES: Submit written comments, in duplicate, to the Office of the Chief, Directives Management Branch, Farmers Home Administration, USDA, Room 6348, South Agriculture Building, 14th Street and Independence Avenue, SW., Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection during working hours at the above address. The collection of information requirements contained in this rule have been submitted to OMB for review under section 3504(h) of the Paperwork Recuction Act of 1980. Submit comments to the Office of Informatrion and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Farmers Home Administration, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Edward R. Yaxley, Jr., Senior Loan Officer, Farm Real Estate and Production Division, Farmers Home Administration, USDA, Room 5449, South Agriculture Building, 14th Street and Independence Avenue, SW., Washington, DC 20250, telephone (202) 447-4572.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under USDA procedures established in Departmental Regulation 1512-1, which implements Executive Order 12291, and has been determined to be nonmajor, because there will not be an annual effect on the economy of $100 million or more; a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Intergovernmental Consultation

1. For the reasons set forth in the final rule related to Notice 7 CFR Part 3015, Subpart V (48 FR 29115, June 24, 1983) and FmHA Instruction 1940-J, "Intergovernmental Review of Farmers Home Administration Programs and Activities." (December 23, 1983), Emergency Loans, Farm Operating Loans, and Farm Ownership Loans are excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

2. The Soil and Water Loan Program is subject to the provisions of Executive Order 12372 and FmHA Instruction 1940-J.

Programs Affected

These changes affect the following FmHA programs as listed in the Catalog of Federal Domestic Assistance:

10.404—Emergency Loans
10.406—Farm Operating Loans
10.407—Farm Ownership Loans
10.416—Soil and Water Loans

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an

Environmental Impact Statement is not required.

Paperwork Reduction Act

Under the Paperwork Reduction Act and 5 CFR Part 1320, the Farmers Home Administration has submitted the information collection requirements contained in this regulation for review by the Office of Management and Budget (OMB).

Discussion of Proposed Rule

The purpose of this proposed rule is to implement the provisions of section 1254 of the Food Security Act of 1985 (Pub. L. 99–198) for deferring and reamortizing distressed FmHA farmer program loans as defined in these regulations or a portion of these loans in conjunction with the production of softwood timber on marginal land. Such loans could be reamortized for up to 50 years with payments deferred for up to 45 years. The marginal land must have previously produced agricultural commodities or have been used as pasture. Such marginal land may not have any lien against it other than a lien to secure such reamortized loan. The total amount of loans secured by such land cannot exceed $1,000 per acre.

A recent USDA study, "Conversion of Southern Cropland to Southern Pine Tree Planting," and a report to Congress as required by Pub. L. 98–258, "Feasibility of Using Future Revenue from Southern Pine Tree Production to Amortize the Debts of Farmers Home Administration (FmHA) Delinquent Borrowers," indicate that the maximum harvest is obtained at between 40 and 50 years for softwood timber. Usually some thinning is needed at 17 years, 25 years, and 35 years which yields mostly pulpwood with some chip and saw timber for a minor amount of income. The proposed regulations do not permit the borrower to harvest the softwood timber for use as Christmas trees. Harvesting the trees when they are small enough for use as Christmas trees would not bring the high prices and future revenue projected in the study. Table D of the report to Congress shows that under the assumption of high prices, 5% inflation rate and final harvest at 45 years, the future revenue discounted at 10% has a present value of $882 per acre. This is interpreted to mean that up to $882 of debt could be amortized at a compound interest rate of 10%. The results do not include any appreciation in land value.

The program is limited to 50,000 acres. Each borrower is required to place at least 50 acres of marginal land into the program. Therefore, the maximum number of borrowers could not exceed 1,000. At this time no funds have been appropriated for the program for new loans. The Congressional Report estimates a direct cost per acre of planting trees of $43.00 and a $4.00 per acre cost for maintenance purposes for a total of $47.00 per acre. Therefore, it is likely that a borrower could obtain funds of these costs from income, other sources, or obtain an FmHA operating loan for establishing the softwood timber. Forestry is also an authorized purpose for farm ownership and soil and water loans. However, security requirements eliminate the use of these programs to finance the production of softwood timber.

When an eligible borrower only owes FmHA loans which include the borrower's dwelling as security for the loans, these loans will be reclassified as Softwood Timber loans. It is reasonable to require the borrower to make payments on the loan equal to the market value of the rent for the dwelling or the minimum equally amortized installment for the term of the loan, whichever is less. If FmHA does not receive any payment under these circumstances, the borrower would be living in the dwelling with all payments deferred on the loan until the timber produces income. In most cases, this would be 45 years. It would be an unreasonable financial burden on FmHA to provide housing free of charge to these borrowers for this length of time.

In most cases, there will be very little income from the timber until the final harvest. It is anticipated that normally payment would be deferred until final harvest, except for the requirement of the payment of income from culled and thinned timber. Therefore, the initial note will be all due and payable at the time of the final harvest, but not later than 46 years from the date of the initial note. However, if the final harvest is delayed and the borrower is unable to pay the note as agreed, the note could be reamortized for a term not to exceed 50 years from the date of the initial note. The total years of deferred payments will not exceed a total of 45 years, including the payments deferred in the initial note.

The proposed regulations will appear in § 1951.46 which is in Subpart A of Part 1951, "Account Servicing Policies." The proposed regulations define the policy, purposes, and terms used in the reclassified ST loan program. The eligibility requirements, reamortization requirements, and additional special requirements for processing the reamortized ST loans are also described. The proposed regulation also explains how the reamortized ST loan will be serviced. Appropriate conforming changes will also be made to FmHA regulations which categorize reamortized ST loan(s) as farmer program loans and specify the general requirements which then apply. The conforming changes will appear in the final rule in the following Parts: 1807; 1863; 1864; 1900, Subpart B; 1924, Subpart B; 1950, Subpart C; 1951, Subparts F and L; 1955, Subparts A, B and C; 1956, Subpart B; 1965, Subpart A. Additional changes will also be made to update citations and correct errors in §§ 1807.1(a), 1950.104 and 1955.106(a).

List of Subjects

7 CFR Part 1924

Agriculture, Construction and repair, Loan programs—Agriculture.

7 CFR Part 1941

Crops, Livestock, Loan programs Agriculture, Rural areas, Youth.

7 CFR Part 1951

Account servicing, Credit, Loan programs—Agriculture, Loan programs—Housing and community development, Mortgages, Rural areas.

7 CFR Part 1965

Foreclosure, Loan programs—Agriculture, Rural areas.

Therefore, as proposed, Chapter XVIII, Title 7, Code of Federal Regulations is amended as follows:

PART 1924—CONSTRUCTION AND REPAIR

1. The authority citation for Part 1924 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart B—Management Advice to Individual Borrowers and Applicants

* * * * *

2. Section 1924.60 is amended by adding a new paragraph (d)(7) to read as follows:

§ 1924.60 Analysis.

* * * * *

(d) * * *

(7) Who have softwood timber loan(s).

PART 1941—OPERATING LOANS

3. The authority citation for Part 1941 continues to read as follows:

Authority: 7 U.S.C. 1989; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Operating Loan Policies, Procedures, and Authorizations

4. Section 1941.16 is amended by adding a new paragraph (m) to read as follows:

§ 1941.16 Loan purposes.

* * * * *

(m) To plant softwood timber on marginal land which was previously used to produce an agricultural commodity or as pasture.

5. Section 1941.19 is amended by adding paragraph (a)(7) to read as follows:

§ 1941.19 Security.

* * * * *

(a) * * *

(7) A lien will not be taken on timber or the marginal land for a loan for planting softwood timber trees on marginal land in conjunction with a softwood timber (ST) loan.

* * * * *

PART 1951—SERVICING AND COLLECTIONS

6. The authority citation for Part 1951 continues to read as follows:

Autority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; CFR 2.23; 7 CFR 2.70.

Subpart A—Account Servicing Policies

7. Section 1951.1 is revised to read as follows:

§ 1951.1 Purpose.

This subpart sets forth the policies and procedures to use in servicing Farmer Program loans (FP) which include Softwood Timber (ST), Operating Loan (OL), Farm Ownership (FO), Soil and Water (SW), Recreation Loan (RL), Emergency Loan (EM), Economic Emergency Loan (EE), Special Livestock Loan (SL), Economic Opportunity Loan (EO), and Rural Housing Loan for farm service buildings (RHF) accounts. This subpart also applies to Rural Rental Housing Loan (RRH), Rural Cooperative Housing Loan (RCH), Labor Housing Loan (LH), Rural Housing Site Loan (RHS), and Site Option Loan (SO) accounts not covered under the Predetermined Amortization Schedule System (PASS). Loan on PASS will be administered under Subpart K of Part 1951 of this chapter. Cases involving unauthorized assistance will be serviced under Subparts L and N of this part. Cases involving graduation of borrowers to other sources of credit will be serviced under Subpart F of this part.

8. Section 1951.9 is amended by adding a new paragraph (a)(4) to read as follows:

§ 1951.9 Distribution of payments when a borrower owes more than one type of FmHA loan.

* * * * *

(a) * * *

(4) Any income received from the sale of softwood timber on marginal land converted to the production of softwood timber must be applied on the ST loan(s).

* * * * *

9. Section 1951.44 is amended by adding a new paragraph (c)(9) to read as follows:

§ 1951.44 Deferrals of existing OL, FO, SW, RL, EM, EO, SO, RHF, and EE loans.

* * * * *

(c) * * *

(9) If available, the borrower will be considered for deferral and reamortization of a distressed FmHA loan(s), as defined in § 1951.46(b)(1) of this subpart by reclassifying the loan(s) as a softwood timber loan in accordance with § 1951.46 of this subpart. The reclassified softwood timber loan is only available after all other options including reamortization at regular rates or limited resource rates will not enable the borrower to achieve a feasible farm plan in accordance with § 1924.57 of Subpart B of Part 1924 of this chapter. The County Supervisor must also determine that a deferral under this section will not enable a feasible farm and home plan or any other acceptable plan to be developed after the deferral period. If it appears that the use of a reclassified softwood timber loan will correct the problem, then the borrower will be informed about the reclassified softwood timber loan program by a letter (available in any FmHA office) similar to Exhibit H of this subpart.

* * * * *

10. Section 1951.46 is added to read as follows:

§ 1951.46 Deferral, reamortization and reclassification of distressed FP loans (ST loans) for softwood timber production.

All borrowers are expected to repay their loans according to established repayment schedules. However, borrowers with distressed FP loans, as defined in this subpart, with 50 or more acres of marginal land may request assistance under the provisions of this section. Such distressed FP loans may be reamortized with the use of future revenue produced from the planting of softwood timber on marginal land as set out in this section. The basic objectives of the FmHA in reamortizing and deferring payments of distressed FP loans (called ST loans) to financially distressed farmers are to develop a positive cash flow to assist eligible FmHA borrowers to improve their financial condition, to repay their outstanding FmHA debts in an orderly manner, to carry on a feasible farming operation, and to take marginal land, including highly erodible land, out of the production of agricultural commodities other than for the production of softwood timber. County Supervisors are authorized to approve ST loans subject to the limitations in paragraph (h) of this section.

(a) *Management assistance.*—Management assistance will be provided borrowers to assist them to achieve loan objectives and protect the Government's interests, in accordance with Subpart B of Part 1924 of this chapter.

(b) *Definitions.*—(1) *Distressed FmHA loan.* A FP loan which is delinquent as provided in § 1924.72 of this chapter or in financial distress, which exists because a borrower cannot project a positive cash flow by using other authorities including rescheduling, reamortizing or deferral at the maximum term.

(2) *Farm plan.* Annual "Farm and Home Plan" (Form FmHA 432–1) or other plans or documents acceptable to FmHA which include similar information necessary for FmHA to make a decision.

(3) *Marginal land.* Land determined suitable for softwood timber production by the Soil Conservation Service (SCS) that was previously (within the last five years) used for the production of agricultrual commodities, as defined in § 12.2 (a)(1) of Subpart A of Part 12 of this chapter and which is Attachment 1 of Exhibit M of Subpart G of Part 1940 of this chapter, or pasture. This could include, but is not limited to, highly erodible land as defined or classified by the SCS. However, marginal land shall not include wetlands as defined in § 12.2 (a)(1) of Subpart A of Part 12 of this chapter and which is Attachment 1 of Exhibit M of Subpart G of Part 1940 of this chapter.

(4) *Positive cash flow.* A positive cash flow must indicate that all of the anticipated cash farm and non-farm income equals or exceeds all the anticipated cash outflows for the planned period. A positive cash flow must show that a borrower will at least be able to:

(i) Pay all operating expenses and taxes and have a reserve for any tax liability.

(ii) Meet necessary payments on debts including any required payments following the expiration of a non-disturbance agreement, on open accounts, and on carryover debts.

(iii) Maintain necessary livestock, farm and home equipment, and buildings to the extent that such items have not been provided for in the operating expenses, such as providing expenses for major repairs.

(iv) Have a reasonable standard of living for the individual borrower or the farm operator in the case of a cooperative, corporation, partnership, or joint operation borrower.

(v) Provide for any essential capital purchases or improvements. Usually it is necessary to plan for a capital expenditures reserve which reflects the depreciating value of the property that will have to be replaced.

(5) *Softwood timber.* The wood of a coniferous tree having soft wood that is easy to work or finish and is commonly grown and commercially sold for pulpwood, chip and sawtimber.

(c) *ST loan eligibility.*—A borrower must:

(1) Have the debt repayment ability and reliability, managerial ability and industry to carry out the proposed operation.

(2) Be willing to place not less than 50 acres of marginal land in softwood timber production; such land (including timber) may not have any lien against such land other than a lien for ST loans to secure such reamortized FP loans or portion of such loans.

(3) Have properly maintained chattel and real estate security and properly accounted for the sale of security, including crops, and livestock production.

(4) Be an FmHA FP loan borrower who owns 50 acres or more of marginal land which SCS determines to be suitable for softwood timber.

(5) Have sufficient training or farming experience to assure reasonable prospects of success in the proposed operation.

(6) Have one or more distress FmHA FP loans as defined by this subpart.

(7) Not have a total indebtedness of ST loan(s) that will exceed $1,000 per acre for the marginal land at closing. Example: If 50 acres of marginal land is put in softwood timber production, the total ST loan indebtedness may not exceed $50,000 at closing.

(8) Be able to obtain sufficient money through FmHA or other sources for the planting, care and harvesting of the softwood timber trees.

(d) *Reamortization requirements.*—(1) A Timber Management Plan must be developed with the assistance of the Federal Forest Service (FS), State Forest Service or such other State or Federal agencies or qualified private forestry service outlining the necessary site preparation, planting practices, environmental protection practices, tree varieties, the harvesting projection, the planned use of the timber, etc. The plan, and information from the State Director supplementing this section as required by paragraph (g) of this section will show prices to use in determining the income to be received. The projected production from the Timber Management Plan will be used to determine income in a farm plan.

(2) The following requirements must also be met:

(i) If the borrower is otherwise eligible, the County Supervisor must determine that a feasible farm plan, as defined by Subpart B of Part 1924 of this chapter, with a positive cash flow projection on the present farm operation is not possible without using the provisions of this section. The County Supervisor must calculate the borrower's cash flow projection, using the maximum terms for the rescheduling, reamortization and deferral authorities set out in this subpart. If a positive cash flow projection can be achieved by using any of these authorities, the borrower's account will be rescheduled, reamortized or deferred, as applicable. Limited Resource rates must be considered, if the borrower is eligible, in determining whether a positive cash flow can be achieved. The County Supervisor must document the steps taken to develop these cash flow projections and must place this documentation in the borrower's case file. If a positive cash flow projection is shown, the borrower is not eligible for a reamortization of a distressed loan(s) as set out in this section. The borrower will be given an opportunity to appeal the denial, as provided in Subpart B of Part 1900 of this chapter.

(ii) If a positive cash flow projection is not shown on the present farm operation, the County Supervisor will determine if a positive cash flow projection would be possible by deferring and reamortizing a portion of one or more distressed FP loans as ST loans. The ST loan is limited to the loan amount sufficient to generate a positive cash flow. However, the amount of the loan cannot exceed the amount specified in paragraph (c)(7) of this section per acre. The borrower with assistance from the County Supervisor must be able to develop a feasible farm plan for the first full crop year of the deferral in accordance wth the requirements of Subpart B of Part 1924 of this chapter. The borrower with assistsance from the County Supervisor must also develop a feasible farm plan for the first year after the deferral period. The financial projection for softwood timber should be based on the Timber Management Plan from the FS, State Forest Servicr or other qualified private or public agencies and the prices issued by the State Director in accordance with paragraph (g) of this section. (iii) When a loan is reamortized the accrued interest will be capitalized. Payments may be deferred for up to 45 years or until the timber crop produces revenue, whichever comes first, except as required in paragraph (j)(2) of this section. If income is available, payments will be required as determined in paragraph (d)(2)(iv) of this section. Repayment of such a reamortized loan shall be scheduled not later than 46 years after the date of the reamortization.

(iv) If assistance is granted, an annual plan will be developed each year to determine if there is any balance available to pay interest and/or principal on ST loans before the deferral period ends. If a balance is available the borrower will sign Form FmHA 440–9, "Supplementary Payment Agreement."

(v) Applicable requirements of Subpart G of Part 1940 of this chapter must be met.

(3) If a borrower has requested an ST loan that has a portion of the debt set-aside under this subpart, the set-aside will be cancelled at the time the reamortization is granted. The borrower may retain the set-aside on other loans. A borrower who requests a reamortization of a distressed set-aside loan must agree in writing to the cancellation of the set-aside. The written agreement must be placed in the borrower's case file.

(4) If the total amount of the distressed FP loan(s) exceeds $1,000 per acre of the marginal land designated for softwood timber production, the FP loan must be split. The split portion of the loan may not exceed $1,000 per acre for the marginal land. A new mortgage will be required to secure this portion of the loan unless the State supplement provides otherwise. The mortgage must provide that FmHA has a security interest in the timber. The remaining balance of such a split loan will be secured by the remaining portion of the farm and such other security previously held as security prior to the split. Separate promissory notes will be executed for each portion of the split loan. The remaining portion of the note will be rescheduled, deferred, or reamortized, as applicable, in accordance with this subpart. The ST loan will be deferred and reamortized in accordance with this section. The ST loan(s) will be secured by the marginal land including timber.

(5) The County Supervisor will release all other liens securing FmHA loans on such marginal land when the ST loan is closed. Only ST loans will be secured by such marginal land including timber. Releases will be processed in accordance with Subpart A of Part 1965 of this chapter. Such releases are authorized by this paragraph. If other lenders have liens on this marginal land, the lenders must release their liens before or simultaneously with FmHA's release of its liens. No additional liens can be placed on the marginal land and timber after the closing of a ST loan.

(e) *Interest rates for reclassified St loans.*—See Exhibit B of FmHA Instruction 440.1 for the applicable interest rate. (Available in any FmHA office.) However, the interest rate will be the lower of (1) the rate of interest on the original loan which has been deferred and reamortized as the ST loan or (2) the Exhibit B rate.

(f) *Special requirements.*—(1) *Size of the timber tract.* The minimum parcels of marginal land selected as a tract for softwood timber production must be contiguous parcels of land containing at least 50 acres. Small scattered parcels will be excluded.

(2) *Farm or residence situated in different counties.* If a farm is situated in more than one State, county, or parish, the loan will be processed and serviced in the State, county, or parish in which the borrower's residence on the farm is located. However, if the residence is not situated on the farm, the loan will be serviced by the county office serving the county in which the farm or a major portion of the farm is located unless otherwise approved by the State Director.

(3) *Graduation of ST borrowers.* If, at any time, it appears that the borrower may be able to obtain a refinancing loan from a cooperative or private credit source at reasonable rates and terms, the borrower will, upon request, apply for and accept such financing.

(g) *Planning.* A farm plan will be completed as provided in Subpart B of Part 1924 of this chapter. The State Director will supplement this subpart with a State supplement to guide the County Supervisor regarding projected timber prices and the sources available to obtain a Timber Management Plan. The required Timber Management Plan developed with the assistance of the FS, State Forest Service or such other State or Federal agencies or qualified private forestry service should provide management recommendations to assist the borrower in establishing, managing and harvesting softwood timber. Borrowers are responsible for implementing the Timber Management Plan.

(h) *Distressed reamortized loan approval or disapproval.* County Supervisors are authorized to approve or disapprove the reamortization of distressed FmHA loans as described in this section. No more than 50,000 acres can be placed in the program. Acres for the program will be allocated to borrowers on a first-come, first-served basis. "Administrative Notices" containing reporting requirements will be issued to field offices so that the National Office can keep a tally of the acres for the program. County Supervisors will obtain a verification from the State Director that the acres can be allocated to the program prior to approval of the reamortization of the distressed FP loan(s). Normally the verification of allocated acres will be obtained when the loan docket is complete and ready for approval. Loans for the program will not be approved until a confirmation is received for the allocation of acres for the loan(s). When a reamortization is approved, the County Supervisor will notify the borrower by letter of the approval of the ST loan(s). The Finance Office will be notified by the County Supervisor by completing and sending Forms FmHA 1965–22, 1965–23, and 1951–6 to the Finance Office.

(i) *Reamortizing disapproval.* When a reamortization is disapproved, the County Supervisor will notify the borrower in writing of the action taken and the reasons for the action, and include any suggestions that could result in favorable action when appropriate. The borrower will be given written notice of the opportunity to appeal as provided in Subpart B of Part 1900 of this chapter.

(j) *Processing of reclassified ST loans.*—(1) If the reclassified ST loan is approved, all other FmHA loans must be current on or before the date the reclassified ST notes are signed except for vouchered recoverable cost items that cannot be rescheduled or reamortized. All other delinquent loans will be rescheduled, reamortized, consolidated or deferred as applicable to bring the account current.

(2) ST loans on the dwelling. If the only liens on the borrower's dwelling are the reclassified ST loans, the borrower must make payments on the loan(s) at least equal to the market value rent for the dwelling as determined by the County Supervisor or for the minimum equally amortized installment for the term of the loan whichever is less. Such payments cannot be deferred and will be shown in the promissory note as a regular installment for the reclassified ST loan.

(3) Form FmHA 1940–18, "Promissory Note for ST loans," will be used for ST loans. Form 1940–17, "Promissory Note," will be used for any remaining portion of a split distressed loan. The forms will be completed, signed and distributed as provided in the FMI.

(4) New mortgages must be filed unless otherwise provided in the State supplement. If a new mortgage or separate security agreement is taken, the new mortgage and/or security agreement should be filed and perfected as provided in the State supplement.

(5) The borrower will obtain any required releases from other lienholders and the County Supervisor will release any other FmHA liens in accordance with paragraph (d)(5) of this section.

(k) *Servicing.* ST loans will be serviced in accordance with Subpart A of Part 1965 of this chapter with the following exceptions:

(1) ST loans will not be subordinated for any purpose.

(2) Security for ST loans will not be leased except for the softwood timber production authorized by the ST loan.

(3) Land designated for softwood production cannot be used for grazing or the production of agricultural commodities, as defined in § 12.2(a)(1) of Subpart A of Part 12 of this chapter and which is Attachment 1 of Exhibit M of Subpart G of Part 1940 of this chapter during the life of the loan.

(4) ST loans will only be transferred as NP loans in accordance with Subpart A of Part 1965 of this chapter except in the case of a deceased borrower. Deceased borrower cases involving transfers will be handled in accordance with Subpart A of Part 1962 of this chapter.

(5) Land designated for softwood timber production under this subpart must remain in the production of softwood timber for the life of the loan. If the trees die or are destroyed or the production of timber ceases, as recognized by acceptable timber management practices, and the borrower is unable to develop feasible plans for the reestablishing the timber production, the account will be liquidated in accordance with the provisions of Subpart A of Part 1965 of this chapter. Borrowers must receive Forms FmHA 1924–14, FmHA 1924–25 and FmHA 1924–26, and *any appeal must be concluded before any adverse action can be taken.*

(6) The Timber Management Plan will be updated and revised, as appropriate, every five years or more often if necessary.

(7) Harvesting softwood timber for Christmas trees is prohibited.

(8) A ST loan will only be reamortized if the timber is not harvested in the year planned for when the initial promissory note was signed and the borrower is unable to pay the note as agreed. Interest will be capitalized at the time of the reamortization. The term of the reamortized note will not exceed 50 years from the date of the initial note. The total years of deferred payments will not exceed 45 years, including the payments deferred in the initial note. The note should be scheduled for payment when the timber is expected to be harvested or when income will be available to pay on the note, whichever comes first. However, partial payments must be scheduled for those years that exeed the deferral period.

(l) *Exception authority.* The Administrator may, in individual cases, make an exception to any requirement or provision of this section or address any omission of this section in a manner which is not inconsistent with the authorizing statute or other applicable law if the Administrator determines that the application of the requirement would adversely affect the Government's interest. The Administrator will exercise this authority upon request of the State Director and on recommendation of the Assistant Administrator, Farmer Programs, or upon request initiated by that Assistant Administrator. Requests for exceptions must be made in writing and supported with documentation to explain the adverse effect on the Government's interest and show how the adverse effect will be eliminated or minimized if the exception is granted.

(m) *State supplements.* State supplements will be issued immediately and updated as necessary to implement this section.

PART 1965—REAL PROPERTY

11. The authority citation for Part 1965 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Servicing of Real Estate Security for Farmer Program Loans and Certain Note-Only Cases

12. Section 1965.12 is amended by revising the introductory text to read as follows:

§ 1965.12 Subordination of FmHA mortgage to permit refinancing, extension, increase in amount of existing prior lien, to permit a new prior lien, or to permit reamortization.

See § 1965.34(e) of this subpart for requirements concerning subordinations of non-program (NP) loans. Softwood timber (ST) loans will not be subordinated.

* * * * *

13. Section 1965.13 is amended by revising the introductory text to read as follows:

§ 1965.13 Consent by partial release or otherwise to sale, exchange or other disposition of a portion of or interest in security, except leases.

If an NP loan is involved, see § 1965.34 of this subpart. If a FP loan is being deferred and remortized as an ST loan, partial releases are authorized as provided in § 1951.46(d)(5). However, there is no authority for FmHA employees to consent to partial release or sale, exchange or other disposition of a portion of the security for an ST loan.

* * * * *

14. Section 1965.31 is amended by adding introductory text to read as follows:

§ 1965.31 Taking liens on real estate as additional security in servicing FmHA loans.

Additional liens will not be taken for other loans on marginal land used for the production of softwood timber if the land is presently securing an ST loan.

* * * * *

Dated: December 31, 1986.

Kathleen W. Lawrence,

Acting Under Secretary for Small Community and Rural Development.

[FR Doc. 87-1687 Filed 1-23-87; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 87-ANM-1]

Proposed Alteration of Troutdale Control Zone, Troutdale, OR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revise the Troutdale, Oregon, Control Zone. The intended effect of this action would reduce the size of controlled airspace designated for the Portland-Troutdale, Oregon, Airport to ease the burden imposed by controlled airspace to VFR operations.

DATES: Comments must be received on or before March 15, 1987.

ADDRESSES: Send comments on the proposal to: Manager, Airspace & System Management Branch, ANM-530, Federal Aviation Administration, Docket No. 87-ANM-1, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

The official docket may be examined in the Office of Regional Counsel at the same address.

An informal docket may also be examined during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, ANM-534, Federal Aviation Administration, Docket No. 87-ANM-1, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, Telephone: (206) 431-2534.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 87-ANM-1". The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking any action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace & System Management Branch, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future

NPRM's should also request a copy of Advisory Circular 11-2 which describes the application procedure.

The Proposal

The FAA is considering a revision to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to reduce the size of controlled airspace by redescribing that portion of the Troutdale, Oregon, Control Zone which abuts the Portland, Oregon, Control Zone.

Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones.

The Proposed Revision

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.171 [Amended]

2. Section 71.171 is amended by revising the Troutdale, Oregon, Control Zone to read as follows:

Troutdale, Oregon (Revised)

Within a 5 mile radius of the Portland-Troutdale Airport (lat. 45°33'30" N, long. 122°23'49" W), excluding the portion within the Portland, Oregon, Control Zone. This control zone is effective during the specific days and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Issued in Seattle, Washington, on January 13, 1987.

William E. O'Neill,

(Acting) Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 87-1588 Filed 1-23-87; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 456

Ophthalmic Practice Rules; Extension of Comment Period

AGENCY Federal Trade Commission.

ACTION: Extension of Time in Which To Submit Comments on Final Staff Report and Presiding Officer's Report.

SUMMARY: The Federal Trade Commission is seeking post-record comment on the Final Staff Report of November 17, 1986, and the Presiding Officer's Report released on November 26, 1986 in the Ophthalmic Practice trade regulation rule proceeding. The time for filing such comments has been extended by the Presiding Officer from February 13, 1987, to March 13, 1987.

DATE: Written comments will be accepted until March 13, 1987.

ADDRESS: Comments should be sent to Henry B. Cabell, Presiding Officer, Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580. These comments should be submitted on 8½ by 11 inch paper and those in excess of four pages should be accompanied by four copies.

FOR FURTHER INFORMATION CONTACT: Henry B. Cabell, Presiding Officer, at the above address or telephone: 202-326-3642.

SUPPLEMENTARY INFORMATION: By **Federal Register** notice of December 1, 1986 [51 FR 43217] the Commission announced the publication and availability of the Final Staff Report and the Report of the Presiding Officer in the trade regulation rule proceeding on Ophthalmic Practice Rules (Public Record 215-63). Post-record comments were invited on these two reports with the period for the receipt of those comments to end on February 13, 1987. The American Optometric Association and the California Optometric Association filed motions asking that the comment period be extended until May 14, 1987. Both the Commission staff and the National Association of Optometrists, Inc. opposed the requested extension of time. After consideration of the motions and the responses thereto the Presiding Officer has extented the period for the receipt of such comments to March 13, 1987. Post-record comments should be confined to information already in the rulemaking record. However, they may include requests for review by the Commission of any rulings or other determinations made by the Presiding Officer, and for an opportunity to make an oral presentation to the Commission pursuant to 16 CFR 1.13(i).

List of Subjects in 16 CFR Part 456

Trade practices, Ophthalmic practice rules.

Henry B. Cabell,

Presiding Officer.

[FR Doc. 87-1632 Filed 1-23-87; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-276-82]

Life Insurance Reserves Computed on a Preliminary Term Basis; Withdrawal of Notice of Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This document withdraws the notice of proposed rulemaking relating to the election with respect to life insurance reserves computed on a preliminary term basis that appeared in the **Federal Register** on November 8, 1983 (48 FR 51331). The notice is being withdrawn because new legislation affects a major portion of the proposed regulations.

FOR FURTHER INFORMATION CONTACT: Alice M. Bennett of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224 (Attention: CC:LR:T) (202-566-3238, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document withdraws the notice of proposed rulemaking that appeared in the **Federal Register** on November 8, 1983 (48 FR 51331). That notice proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 818(c) of the Internal Revenue Code of 1954 (as in effect prior to the enactment of the Tax Reform Act of 1984). In general, section 818(c) (as in

effect prior to the enactment of the Tax Reform Act of 1984) permitted certain taxpayers that computed their life insurance reserves on a preliminary term basis to recompute their reserves using either the exact revaluation method or the approximate revaluation method set forth in section 818(c)(2).

The proposed amendments would have conformed the regulations to reflect the change to the approximate revaluation formula made by the Tax Equity and Fiscal Responsibility Act of 1982, and would have provided rules for determining the eligibility of certain contracts for the approximate revaluation adjustment. Public comments were received with respect to the proposed regulations. A public hearing, although requested, was not held.

The notice being withdrawn was issued prior to the enactment of the Tax Reform Act of 1984, which made significant changes to the provisions of the Internal Revenue Code relating to the taxation of life insurance companies. These changes include the repeal of the election to recompute life insurance reserves computed on a preliminary term basis that was provided by section 818(c) (as in effect prior to the enactment of the Tax Reform Act of 1984), effective for taxable years beginning after December 31, 1983. The repeal of the section 818(c) election by that Act affects a major portion of the amendments proposed in the notice. Therefore, the Internal Revenue Service has determined that the proposed amendments should be withdrawn.

The Internal Revenue Service will continue its administrative practice concerning the separation of certain contracts for purposes of the recomputation of reserves for the taxable years in which the election under section 818(c) was in effect. Thus, the Service will continue to examine carefully contracts that depart from traditional whole life or term insurance products, and, in appropriate cases, will separate those contracts into their component parts.

For example, if a single contract provides for permanent insurance of $10,000 and for additional insurance of $5,000 if the insured dies before age 65, the Service will separate the term ($5,000) and other-than-term ($10,000) components of the contract for purposes of the approximate revaluation adjustment. As another example, if a contract provides for insurance of $10,000 for which premiums increase each year for 20 years and are significantly higher and level thereafter for life, the Service will examine closely the benefits provided over the term of the contract (including the cash value) and the reserves established under the contract to determine whether the contract appropriately should be separated into a term or series of term contracts until year 20 and an other-than-term contract that takes effect in the twentieth year.

In addition, the Service will continue its administrative practice with respect to the reserve adjustment under the approximate revaluation method for term insurance in force under contracts which at the time of issuance cover a period of more than 15 years. Thus, the Service will continue to disallow adjustments relating to amounts of term insurance that are not in force for a period of more than 15 years. For example, if a contract for twenty years provides for insurance that decreases by $1,000 in each year from $20,000 in the first year to $1,000 in the twentieth year, the approximate revaluation adjustment for the reserves under that contract will be determined only by reference to the amount of term insurance that is in force for more than 15 years ($5,000). As another example, if a contract provides for one-year term insurance that is renewable in each of 20 years, the reserves under that contract would not be eligible for the adjustment since the insurance in each year is only in force for that year.

Drafting Information

The principal author of this document is Alice M. Bennett of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing this document on matters of both substance and style.

List of Subjects in 26 CRF 1.801–1—1.832–6

Income taxes, Insurance companies.

Withdrawal of notice of proposed rulemaking

Accordingly, the proposed amendments to 26 CFR Part 1 relating to the election with respect to life insurance reserves computed on a preliminary term basis, published in the **Federal Register** on November 3, 1983, are hereby withdrawn.

James I. Owens,

Acting Commissioner of Internal Revenue.

[FR Doc. 87–1652 Filed 1–23–87; 8:45 am]

BILLING CODE 4830–01–M

26 CFR Parts 1, 26a, 48, and 52

[LR–277–76]

Miscellaneous Federal Tax Matters; Withdrawal of Notices of Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Withdrawal of notices of proposed rulemaking.

SUMMARY: This document withdraws several notices of proposed rulemaking relating to federal taxation that were published from 1970 through 1984. The proposed regulations being withdrawn are identified in the table set out in this withdrawal notice. The Internal Revenue Service has announced that it is closing the projects under which these notices of proposed rulemaking were issued.

DATE: The withdrawal of these notices of proposed rulemaking is effective on January 23, 1987.

FOR FURTHER INFORMATION CONTACT: Cynthia Grigsby of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224 (Attention: CC:LR) (202–343–0232).

SUPPLEMENTARY INFORMATION:

Background

This document withdraws several notices of proposed rulemaking that were published in the **Federal Register** for various dates from 1970 through 1984. Those notices proposed amendments to the Income Tax Regulations (26 CFR Part 1), the Generation-Skipping Transfer Tax Regulations (26 CFR Part 26a), the Manufacturers and Retailers Excise Tax Regulations (26 CFR Part 48), and the Environmental Taxes on Petroleum and Certain Chemicals and Hazardous Waste Regulations (26 CFR Part 52). Those proposed regulations are being withdrawn because the projects under which they were issued are being closed as a result of the review process described below. This withdrawal notice identifies the notices of proposed rulemaking being withdrawn.

During the development of the Tax Reform Act of 1986 (the Act), the Internal Revenue Service (the Service) and the Treasury Department intensively reviewed all regulations projects that were open as of July 1, 1986, to determine whether these projects should remain open. This review was necessary so that the Service and the Treasury Department could use

their resources more efficiently in providing regulatory guidance under the then pending tax reform legislation. As a result of this review, the Service has decided to close 133 regulations projects.

Many of the projects will be closed because necessary interpretative guidance can be provided in other ways, such as revenue rulings and revenue procedures. In some cases, the issues addressed in a project have been resolved by the Act or will be considered further in new regulations projects under the Act. In other cases, the applicable law has been repealed and will have no future effect. This notice withdraws notices of proposed rulemaking issued under those projects being closed.

Drafting Information

The principal author of this document is Cynthia Grigsby of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing this document, both on matters of substance and style.

Withdrawal of Proposed Amendments

The proposed amendments to 26 CFR Parts 1, 26a, 48, and 52 under the notices of proposed rulemaking listed in the table below are hereby withdrawn.

Project number	Code section	Subject	Date published	Citation
LR-639-71 (formerly LR-1639)	163(d)	Limitation on Interest Deduction	12-30-70	35 FR 19757
	703		06-24-71	36 FR 12020
LR-721-71 (formerly LR-1721)	277	Taxation of Nonexempt Membership Organization	05-06-72	37 FR 9278
LR-119-72 (formerly LR-2119)	4061	Applicability of Excise Tax on Motor Vehicles on or after 7-1-65	12-30-82	47 FR 58297
LR-9-75	103(b)(4)	To Clarify the Definition of Property which is a Pollution Control Facility	08-20-75	40 FR 36371
LR-124-76	303	Distribution in Redemption of Stock to Pay Death Taxes	08-22-84	49 FR 33277
LR-130-76	337(c)(3)	Simultaneous Liquidation of Parent and Subsidiary	01-10-84	49 FR 1225
LR-136-76	118(b)	Contribution in Aid of Construction for Certain Utilities	06-30-78	43 FR 22997
LR-159-76	22	Changes in Exclusion for Sick Pay and Certain Disability Pensions	07-09-80	45 FR 46082
LR-183-76	642(g)	Income Tax Treatment of Certain Expenses of an estate	12-31-82	47 FR 55697
LR-277-76	1371	Certain Rules Relating to Shareholders of Subchapter S Corporations	04-17-80	45 FR 26092
LR-70-77	103(b)	To Provide for the Tax Consequences of Refunding Industrial Development Bonds to the Issuer, Bondholder and Industrial User.	12-06-77	42 FR 61613
LR-4-78	46	Investment Credit for Cooperatives	12-27-83	48 FR 56965
LR-42-78	79	Group Term Life Insurance—Evidence of Insurability	10-07-82	47 FR 44343
LR-234-79	2601	Generation-Skipping Transfers	08-05-80	45 FR 51840
LR-16-81	4611	Environmental Taxes	11-03-83	48 FR 50775
LR-192-81	103(b)(4)	IDB's for Vehicles Used for Mass Commuting	12-31-81	46 FR 63326
LR-241-81	305	Reinvestment of Dividends in the Stock of Public Utilities	06-30-83	48 FR 30146
LR-264-81	103(b)(6)	To Clarify the Definition of the Term "Issue"	10-08-81	46 FR 50014
LR-276-81	809	To Clarify the Treatment of Certain Amounts Refunded in Reinsurance Transactions	03-19-82	47 FR 11882
	811			
LR-5-82	162(h)	State Legislators' Travel Expenses	08-09-83	48 FR 36137
LR-82-82	103(c)	To amend the Regulations Under §§ 1.103-13 and 1.103-14 with respect to "Over-Issuance" and "Cumulative Cash Flow Deficit".	03-29-83	48 FR 13051
LR-187-82	N/A	Terminal Rental Adjustment Clauses for Motor Vehicle Agreements	11-23-82	47 FR 52729
LR-66-83 (portion of LR-18-82)	1502	Life-Life Consolidations and Others Materials Reserved by T.D. 7877	06-08-82	47 FR 24737
EE-17-78 (formerly LR-213-74)	403(b)(7)	Taxability of Beneficiary under Annuity Purchased by § 501 (c) Organization or Public School.	02-10-78	43 FR 5852
EE-105-83 (formerly LR-1744)	512(a)	Social Clubs—Unrelated Business Income	12-30-80	48 FR 85786
			05-13-71	36 FR 8808.

Lawrence B. Gibbs,

Commissioner of Internal Revenue.

[FR Doc. 87-1653 Filed 1-23-87; 8:45 am]

BILILNG CODE 4830-01-M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 19, 25, 240, 250, 270, 275, and 285

[Notice 617]

Timely Remittance of Tax by EFT

AGENCY: The Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms proposes to amend ATF regulations implementing 26 U.S.C. 5061(e) and 5703(b), relating to the payment of tax on distilled spirits, wine, beer, tobacco products, and cigarette papers and tubes by electronic fund transfer (EFT). The proposed amendments establish that a remittance of tax by electronic fund transfer is considered made when the payment is credited to the Treasury Account at the Federal Reserve Bank in New York City. These amendments to the regulations would insure timely payment of taxes by electronic fund transfer.

DATE: Comments must be received on or before February 25, 1987.

ADDRESS: Send comments to: Chief, Procedures Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385. (Attn. Notice No. 617)

Copies of the written comments received in response to this notice will be available during normal business hours at: ATF Reading Room, Disclosure Branch, Room 4406, Ariel Rios Federal Building, 12th and Pennsylvania Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: David Brokaw, Procedures Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue NW., Washington, DC 20226; (202) 566-7602.

SUPPLEMENTARY INFORMATION: This proposal would correct technical discrepancies in ATF regulations implementing 26 U.S.C. 5061(e) and 5703(b) relating to the payment of tax on distilled spirits, wine, beer, tobacco products, and cigarette papers and tubes by electronic fund transfer (EFT). The regulations in 27 CFR Parts 19, 25, 240, 250, 270, 275, and 285 each contain a paragraph which indicates when remittances are considered made, as follows:.

> Remittances shall be considered as made when a taxpayer unconditionally directs the bank to immediately make an electronic fund transfer in the amount of the taxpayment to the Treasury Account, in accordance with the procedures established by the bank.

ATF has determined that this paragraph may be interpreted as relieving the taxpayer of responsibility for timely remittance once he has directed his bank to make the electronic fund transfer payment.

A remittance by electronic fund transfer is not received by the government until the taxpayment is

credited to the Treasury Account at the Federal Reserve Bank in New York City. The taxpayer's timely request to his bank to remit funds by electronic fund transfer does not necessarily assure that the funds will be timely credited to the Treasury Account. In instances where the bank does not comply with the direction from the taxpayer and the required EFT payment arrives late at the Federal Reserve Bank, there is no provision in the Internal Revenue Code under which ATF can hold the bank, who is not the taxpayer, responsible for taxes, interest, and penalties for making a late EFT payment. Only the person liable for the tax can be held responsible for the timely arrival of the taxpayment to the Treasury Account at the Federal Reserve Bank in New York City.

Accordingly, ATF proposes to amend the regulations to indicate that the remittance is considered as made when the taxpayment is credited to the Treasury Account. These amendments would make it clear that the taxpayer is responsible for timely remittance of taxes to the Treasury account by electronic fund transfer.

An additional paragraph in each of the previously cited Parts of 27 CFR is titled "Failure to request an electronic fund transfer" and states:

> The taxpayer is subject to a penalty imposed by 26 U.S.C. 5684, 6651, to 6656, as applicable, for failure to make a taxpayment by EFT on or before the close of business on the prescribed last day for filing.

Although the wording of the paragraph correctly penalizes the taxpayer for failure to deposit a taxpayment by EFT, the title indicates that the penalty is for failure to request an electronic fund transfer. ATF proposes to change the title of this paragraph to reflect the determination that the remittance is considered as made when the taxpayment is credited to the Treasury Account at the Federal Reserve Bank in New York City.

Regulatory Flexibility Act

The provisions of the regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because the notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities. The proposal will not impose, or otherwise cause, a significant increase in reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The proposal is not expected to have significant secondary or incidential effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605 (b)) that this notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

In compliance with Executive Order 12291, ATF has determined that this proposal is not a "major rule" since it will not result in:

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, or Federal, State, or local government agencies, or geographic regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96–511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this proposed rule because no requirement to collect informaton is proposed.

Public Participation

ATF requests comments from all interested parties. Comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future action.

ATF will not recognize any comments as confidential. Comments may be disclosed to the public. Any material which a commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting a comment is not exempt from disclosure.

Any person who desires an opportunity to comment orally at a public hearing on the Notice of Proposed Rulemaking should submit a written request to the Director within the comment period. However, the Director reserves the right to determine, in light of all circumstances, whether a public hearing will be necessary.

List of Subjects

27 CFR Part 19

Administrative practice and procedure, Alcohol and Alcoholic beverages, Authority delegations, Claims, Chemicals, Customs duties and inspection, Electronic fund transfer, Excise taxes, Exports, Gasohol, Imports, Labeling, Liquors, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Research, Security measures, Spices and flavorings, Surety bonds, Transportation, Virgin Islands, Warehouses, Wine.

27 CFR Part 25

Administrative practice and procedure, Authority delegations, Beer, Claims, Electronic fund transfer, Excise taxes, Exports, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Research, Surety bonds, Transportation.

27 CFR Part 240

Administrative practice and procedure, Authority delegations, Claims, Electronic fund transfer, Excise taxes, Exports, Food additives, fruit juices, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Research, Scientific equipment, Spices and flavorings, Surety bonds, Transportation, Vinegar, Warehouses, Wine.

27 CFR Part 250

Administrative practice and procedure, Alcohol and Alcoholic beverages, Authority delegations, Beer, Customs duties and inspection, Electronic fund transfer, Excise taxes, Labeling, Liquors, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Surety bonds, Transportation, Virgin Islands, Warehouses, Wine.

27 CFR Part 270

Administrative practice and procedure, Authority delegations, Cigars and cigarettes, Claims, Electronic fund transfer, Excise taxes, Labeling, Packaging and containers, Penalties, Reporting and recordkeeping requirements, Seizures and forfeitures, Surety bonds.

27 CFR Part 275

Administrative practice and procedure, Authority delegations, Cigarette papers and tubes, Cigars and cigarettes, Claims, Customs duties and inspection, Electronic fund transfer, Excise taxes, Imports, Labeling, Packaging and containers, Penalties,

Puerto Rico, Reporting and recordkeeping requirements, Seizures and forfeitures, Surety bonds, Virgin Islands, Warehouses.

27 CFR Part 285

Administrative practice and procedure, Authority delegations, Cigarette papers and tubes, Cigars and cigarettes, Claims, Customs duties and inspection, Electronic fund transfer, Excise taxes, Packaging and containers, Penalties, Reporting and recordkeeping requirements, Seizures and forfeitures, Surety bonds.

Drafting Information

The principal author of this document is David Brokaw of the Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms.

Authority and Issuance

Title 27 CFR is amended as follows:

PART 19—DISTILLED SPIRITS PLANTS

Paragraph 1. The authority citation for Part 19 continues to read as follows:

Authority: 19 U.S.C. 81c, 1311; 26 U.S.C. 5001, 5002, 5004–5006, 5008, 5041, 5061, 5062, 5066, 5101, 5111–5113, 5171–5173, 5175, 5176, 5178–5181, 5201–5207, 5211–5215, 5221–5223, 5231, 5232, 5235, 5236, 5241–5243, 5271, 5273, 5301, 5311–5313, 5362, 5370, 5373, 5501–5505, 5551–5555, 5559, 5561, 5562, 5601, 5612, 5682, 6001, 6065, 6109, 6302, 6311, 6676, 7510, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

Par. 2. Section 19.524(c)(2) is revised and the title of paragraph (d) is revised to read as follows:

§ 19.524 Payment of tax by electronic fund transfer.

* * * * *

(c) *Remittance.* * * *

(2) Remittances shall be considered as made when the taxpayment by electronic fund transfer is credited to the Treasury Account.

* * * * *

(d) *Failure to make a taxpayment by EFT.* * * *

* * * * *

PART 25—BEER

Par. 3. The authority citation for Part 25 continues to read as follows:

Authority: 5 U.S.C. 552(a); 19 U.S.C. 81c, 1309; 26 U.S.C. 5002, 5051–5054, 5056, 5061, 5091, 5111, 5113, 5142, 5143, 5146, 5222, 5401–5417, 5551, 5552, 5555, 5556, 5671, 5673, 5684, 6011, 6061, 6065, 6091, 6109, 6151, 6301, 6302, 6311, 6313, 6402, 6651, 6656, 6676, 6806, 7011, 7342, 7606, 7805; 31 U.S.C. 9301, 9303–9308.

Par. 4. Section 25.165(c)(2) and the leading of paragraph (d) are revised to read as follows:

§ 25.165 Payment of tax by electronic fund transfer.

* * * * *

(c) *Remittance.* * * *

(2) Remittances shall be considered as made when the taxpayment by electronic fund transfer is credited to the Treasury Account.

* * * * *

(d) *Failure to make a taxpayment by EFT.* * * *

* * * * *

PART 240—WINE

Par. 5. The authority citation for Part 240 continues to read as follows:

Authority: 5 U.S.C. 552(a); 26 U.S.C. 5001, 5008, 5041, 5042, 5044, 5061, 5062, 5111–5113, 5121, 5122, 5142, 5143, 5173, 5206, 5214, 5215, 5332, 5351, 5353, 5354, 5356–5358, 5361, 5362, 5364–5373, 5381–5388, 5391, 5392, 5551, 5552, 5661, 5662, 5684, 6065, 6091, 6109, 6301, 6302, 6311, 6651, 6676, 7011, 7302, 7342, 7502, 7503, 7606, 7805, 7851; 27 U.S.C. 205; 31 U.S.C. 9031, 9303, 9304, 9306.

Par. 6. Section 240.591a(c)(2) is revised and the title of paragraph (d) is revised to read as follows:

§ 240.591a Payment of tax by electronic fund transfer.

* * * * *

(c) *Remittance.* * * *

(2) Remittances shall be considered as made when the taxpayment by electronic fund transfer is credited to the Treasury Account.

* * * * *

(d) *Failure to make a taxpayment by EFT.* * * *

* * * * *

PART 250—LIQUORS AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS

Par. 7. The authority citation for Part 250 is revised to read as follows:

Authority: 5 U.S.C. 552(a); 19 U.S.C. 81c; 26 U.S.C. 5001, 5007, 5008, 5041, 5051, 5061, 5111, 5112, 5114, 5121, 5122, 5124, 5146, 5205, 5207, 5232, 5301, 5314, 5555, 6301, 6302, 6804, 7101, 7102, 7651, 7652, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

§ 250.2112a [Amended]

Par. 8. Section 250/112a(c)(2) is revised and the title of paragraph (d) is revised to read as follows:

* * * * *

(c) *Remittance.* * * *

(2) Remittances shall be considered as made when the taxpayment by electronic fund transfer is credited to the Treasury Account.

* * * * *

(d) *Failure to make a taxpayment by EFT.* * * *

* * * * *

PART 270—MANUFACTURE OF CIGARS AND CIGARETTES

Par. 9. The authority citation for Part 270 is revised to read as follows:

Authority: 5 U.S.C. 552(a); 26 U.S.C. 5701, 5703–5705, 5711–5713, 5721–5723, 5741, 5751, 5753, 5761–5763, 6109, 6301, 6302, 6311, 6313, 6402, 6404, 6423, 6676, 7212, 7325, 7342, 7502, 7503, 7606, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

Par. 10. Section 270.165a(c)(2) is revised and the title of paragraph (d) is revised to read as follows:

§ 270.165a Payment of tax by electronic fund transfer.

* * * * *

(c) *Remittance.* * * *

(2) Remittance shall be considered as made when the taxpayment by electronic fund transfer is credited to the Treasury Account.

* * * * *

(d) *Failure to make a taxpayment by EFT.* * * *

* * * * *

PART 275—IMPORTATION OF CIGARS, CIGARETTES, AND CIGARETTE PAPERS AND TUBES

Par. 11. The authority citation for Part 275 is revised to read as follows:

Authority: 5 U.S.C. 552(a); 26 U.S.C. 5701, 5703–5705, 5708, 5722, 5723, 5741, 5761–5763, 6301, 6302, 6313, 6404, 7101, 7212, 7342, 7606, 7652, 31 U.S.C. 9301, 9303, 9304, 9306.

Par. 12. Section 275.115a(c)(2) is revised and the title of paragraph (d) is revised to read as follows:

§ 275.115a Payment of tax by electronic fund transfer.

* * * * *

(c) *Remittance.*

(2) Remittance shall be considered as made when the taxpayment by electronic fund transfer is credited to the Treasury Account.

* * * * *

(d) *Failure to make a taxpayment by EFT.* * * *

* * * * *

PART 285—MANUFACTURE OF CIGARETTE PAPERS AND TUBES

Par. 13. The authority citation for Part 285 continues to read as follows:

Authority: 5 U.S.C. 552(a); 26 U.S.C. 5701, 5703–5705, 5711, 5721–5723,. 5741, 5751, 5753, 5761–5763, 6109, 6302, 6402, 6404, 6676, 7212, 7325, 7342, 7606; 31 U.S.C. 9301, 9303, 9304, 9306.

Par. 14. Section 285.27(c)(2) is revised and the title of paragraph (d) is revised to read as follows:

§ 285.27 Payment of tax by electronic fund transfer.

* * * * *

(c) *Remittance.* * * *

(2) Remittance shall be considered as made when the taxpayment by electronic fund transfer is credited to the Treasury Account.

* * * * *

(d) Failure to make a taxpayment by EFT. * * *

* * * * *

November 20, 1986.

Stephen E. Higgins,

Director.

Approved: December 17, 1986.

Francis A. Keating, III,

Assistant Secretary (Enforcement).

[FR Doc. 87-1433 Filed 1-23-87; 8:45 am]

BILLING CODE 4810-31-M

POSTAL SERVICE

39 CFR Part 10

Proposed Express Mail International Service to Jordan

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: Pursuant to an agreement with the postal administration of Jordan, the postal Service intends to begin Express Mail International Service with Jordan at postage rates indicated in the tables below.

DATE: Comments must be received on or before February 25, 1987.

ADDRESS: Written comments should be directed to the General Manager, Rate Development Division, Office of Rates, Rates and Classification Department, U.S. Postal Service, Washington, DC 20260-5350. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in room 8620, 475 L'Enfant Plaza West, SW., Washington, DC 20260-5350.

FOR FURTHER INFORMATION CONTACT: Leon W. Perlinn, [202] 268-2673.

SUPPLEMENTARY INFORMATION: The International Mail Manual is incorporated by reference in the Code of Federal Regulations, 39 CFR 10.1. Additions to the manual concerning the proposed new services, including the rate tables reproduced below, will be made in due course. Accordingly, although 39 U.S.C. 407 does not require advance notice and the opportunity for submission of comments on international service, and the provisions of the Administrative Procedure Act regarding proposed rulemaking [5 U.S.C. 553] do not apply [39 U.S.C. 410(a)], the Postal Service invites interested persons to submit written data, views or arguments concerning the proposed Express Mail International Service to Jordan at the rates indicated in the table below..

Lists of Subjects in 39 CFR Part 10

Postal Service, Foreign relations.

PART 10—[AMENDED]

The authority citation for Part 10 continues to read as follows:

Authority: 5 U.S.C. 552(a), 39 U.S.C. 401, 404, 407, 408.

JORDAN EXPRESS MAIL INTERNATIONAL SERVICE

Custom Designed Service [1, 2] Up to and Including		On Demand Service [2] Up to and Including	
Pounds	Rate	Pounds	Rate
1	$31.00	1	$23.00
2	35.90	2	27.90
3	40.80	3	32.80
4	45.70	4	37.70
5	50.60	5	42.60
6	55.50	6	47.50
7	60.40	7	52.40
8	65.30	8	57.30
9	70.20	9	62.20
10	75.10	10	67.10
11	80.00	11	72.00
12	84.90	12	76.90
13	89.80	13	81.80
14	94.70	14	86.70
15	99.60	15	91.60
16	104.50	16	96.50
17	109.40	17	101.40
18	114.30	18	106.30
19	119.20	19	111.20
20	124.10	20	116.10
21	129.00	21	121.00
22	133.90	22	125.90
23	138.80	23	130.80
24	143.70	24	135.70
25	148.60	25	140.60
26	153.50	26	145.50
27	158.40	27	150.40
28	163.30	28	155.30
29	168.20	29	160.20
30	173.10	30	165.10
31	178.00	31	170.00
32	182.90	32	174.90
33	187.80	33	179.80
34	192.70	34	184.70
35	197.60	35	189.60
36	202.50	36	194.50
37	207.40	37	199.40
38	212.30	38	204.30
39	217.20	39	209.20
40	222.10	40	214.10
41	227.00	41	219.00
42	213.90	42	223.90
43	236.80	43	228.80

JORDAN EXPRESS MAIL INTERNATIONAL SERVICE—Continued

Custom Designed Service [1, 2] Up to and Including		On Demand Service [2] Up to and Including	
Pounds	Rate	Pounds	Rate
44	421.70	44	233.70

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and international Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

An appropriate amendment to 39 CFR 10.3 to reflect these changes will be published when the final rule is adopted.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 87-1640 Filed 1-23-87; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-3146-5]

Approval and promulgation of Implementation Plans; Indiana

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: USEPA is proposing rulemaking on revisions to Indiana's State Implementation Plan (SIP) for ozone and carbon monoxide (CO). These revisions will affect the ozone/CO nonattainment areas within Clark, Floyd, Lake and Porter Counties, which were granted extensions for attainemnt of the ozone/CO National Ambient Air Quality Standards (NAAQS) from the initial attainment date of December 31, 1982, to December 31, 1987.

DATE: Comments on these revisions and on USEPA's proposed action must be received by March 27, 1987.

ADDRESSES: Copies of the revision requests, technical support documents and other materials relating to this rulemaking are available at the following addresses: (It is recommended that you contact Steven D. Griffin, at (312) 353-3849 before visiting the Region V office.)

U.S. Environmental Protection Agency, Air and Radiation Branch (5AR–26), 230 South Dearborn Street, Chicago, Illinois 60604

Indiana Department of Environmental Management, Office of Air Management, 105 South Meridian Street, P.O. Box 6015, Indianapolis, Indiana 46206–6015

Comments on this proposed rule should be addressed to: (Please submit an original and three copies, if possible.)

Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR–26), U.S. Environemntal Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604

FOR FURTHER INFORMATION CONTACT: Steven D. Griffin, (312) 353–3849.

SUPPLEMENTARY INFORMATION: USEPA designated certain areas in Indiana as not attaining the ozone and CO NAAQS, pursuant to section 107 of the Clean Air Act (Act) (see 40 CFR 81.315). For these areas, Part D of the Act requires the State to revise its SIP in order to attain the ozone/CO NAAQS by December 31, 1982; however, section 172(a)(2) allows for an extension of this deadline to no later than December 31, 1987, for those areas which are unable to attain the standards despite the implementation of all reasonably available control measures. States which failed to demonstrate attainment of the ozone/CO NAAQS by December 31, 1982, were required to commit to implement an I/M program by no later than 1982, and to submit ozone/CO SIP revisions by July 1, 1982. On January 22, 1981 (46 FR 7182), USEPA provided guidance on the preparation and submittal of ozone and CO plan revisions.

On June 26, 1979 Indiana submitted a request to extend the dates for ozone attainment in Clark, Floyd, Lake and Porter Counties and CO attainment in Lake County to 1987. This submittal included SIP revisions with attainment demonstration for the four counties. USEPA approved or conditionally approved portions of the plan in four rulemaking actions (see 46 FR 36, 47 FR 6274, 47 FR 47552 and 48 FR 2124).

The following includes a discussion of the ozone/CO SIP development for the four counties and a summary of today's actions.

A. Development of Indiana's Post 1982 Ozone/CO SIP

On September 2, 1982, Indiana submitted a draft ozone/CO SIP revision to USEPA. The revision included a SIP strategy which called for volatile organic compound (VOC) emission reductions of 34% for Clark and Floyd Counties in the Louisville Interstate Air Quality Control Region (AQCR), and VOC reductions of 31% for Lake and Porter Counties in the Chicago Interstate AQCR. These reductions were designed to result in NAAQS attainment by 1987.

On February 3, 1983 (48 FR 5106), USEPA proposed to disapprove the draft revision, because: (1) It did not include an enforcable commitment to adopt Reasonably Available Control Technology (RACT) for Group III Control Technique Guideline (CTG) sources and other major, non-CTG VOC sources (sources for which no CTG has been or is contemplated to be published); (2) it did not include a commitment to implement I/M; (3) it did not ensure interstate (Illinois, Indiana and Wisconsin) ozone attainment, pursuant to requirements of section 110(a)(2)(E) of the Act; (4) it included contingency measures instead of enforceable emission reduction strategies; and (5) it deviated from USEPA guidance in other areas, including area, mobile and point source inventories, air quality data and ozone modeling.

On December 2, 1983, Indiana submitted the State adopted version of the 1982 ozone/CO plan. Changes were made and certain deficiencies were corrected. These included: (1) A commitment to adopt Group III GTG RACT and RACT for the remaining major, non-CTG VOC sources; (2) a renewed commitment to adopt and implement I/M; (3) a commitment to adopt the modeling analysis of emission reduction requirements submitted by Illinois to ensure interstate ozone attainment; and (4) adoption of Stage II vapor recovery for gasoline service stations as a contingency measure.

On October 9, 1984 (49 FR 39574), USEPA proposed conditional approval of portions of the ozone/CO plan, as follows: (1) Approval of Indiana's transportation control plan if further technical support regarding transportation control measures (TCM's) was provided by the State; (2) approval of the I/M program if the State provided an approvable description of its enforcement mechanism, a description of the resources available to enforce its I/M plan, a demonstration that its I/M program meets the Act's RACT requirement, and a commitment to rectify other stated deficiencies within a specified time; (3) approval of the northwest Indiana ozone attainment demonstration if the State agreed to submit Illinois' modeling analysis of emission reduction requirements for the interstate Chicago areas as part of its revision to Indiana's SIP; and (4) approval of the ozone plan for Clark and Floyd Counties if the State committed to reduce VOC emissions by at least 32.5% from 1980 to 1987 in order to attain the NAAQS by 1987. In addition, USEPA proposed to approve Indiana's CO attainment demonstration for Lake County because the State's plan provided for an emissions reduction of over 50% from 1980 to 1987, which would result in NAAQS attainment in the nonattainment area by 1987.

In response to USEPA's proposed rulemaking, the State submitted its comments on February 8, 1985. A detailed description of those comments and subsequent proposals to resolve major issues will follow.

B. Proposed Resolution of Major Issues

1. Indiana's Transportation Control Plan

In the February 8, 1985, submittal, the State agreed to provide:

(a) Sufficient documentation to support the bases for choosing to implement certain TCM's for the purposes of VOC emission reductions in the four applicable counties, pursuant to section 108(f) of the Act. The county metropolitan planning organizations (MPO's) committed to submit to the State the required technical analyses and TCM assessments by June 30, 1985;

(b) A commitment to provide a yearly assessment of implemented TCM's in the four counties, including technical analyses of emission reductions resulting from the implementation of each measure or group of measures. The MPO's agreed to submit to the State this commitment, again, by June 30, 1985;

(c) A discussion of how the basic transporation needs of the four counties are being met, including funding provisions and commitments for such needs. Such information was to have been submitted to the State by August 30, 1985; and

(d) Sufficient documentation to support emission reduction benefits for the TCM's included in the State's 1982 transportation control plan for Lake and Porter Counties. The TCM's include speed limit review, placing traffic signals on flash at certain lightly travelled intersections, removing unnecesary stop signs, carpooling and vanpooling. This information was due to be submitted by April 30, 1985.

To date, USEPA has not received any of the above inforamtion. In addition, the State has agreed to provide a list of planned transportation measures and projects that may adversely affect air quality and that will be delayed if expected emission reductions or air quality improvements do not occur. (See 46 FR 7182, January 22, 1981.) USEPA

proposes to disapprove Indiana's transportation control plan, unless the State provides the aforementioned information within the comment period associated with this notice.

2. Vehicle I/M

The February 8, 1985, submittal included a discussion of Indiana's proposed I/M enforcement mechanism, which was previously outlined in a February 6, 1985, letter to USEPA from the Governor of Indiana. The program was comprised of a $5 excise tax credit as an incentive to vehicle owners who voluntarily have their vehicles tested, suspension of registrations at the time of renewal for those vehicles which have not been tested, and a $100 fine to owners of untested vehicles.

In two rulemaking actions, USEPA proposed the imposition of sanctions to withhold funding for State highway and air quality programs and to place a moratorium on new and modified source construction. On August 3, 1983 (48 FR 35316), USEPA proposed to find that Indiana was no longer implementing its approved 1979 ozone/CO SIP, due to the State's failure to satisfactorily demonstrate that the I/M provisions of the SIP were being implemented. As a result, USEPA proposed the imposition of funding sanctions, pursuant to Section 176(b) of the Act, and a moratorium on new and modified source construction, pursuant to section 173(4). On January 21, 1986 (51 FR 2732), USEPA proposed to limit certain funding assistance, pursuant to section 176(a), due to the State's failure to submit a SIP for the four counties which considered each of the elements in section 172 of the Act. Although the later notice announced that public hearings would be held on USEPA's proposed actions concerning I/M issues, these hearings were indefinitely postponed on April 7, 1986 (51 FR 11756). This postponement was due to the State Legislature's passage of the proposed enforcement mechanism outlined above. Currently, USEP is reviewing Indiana's progress toward full implementation of an I/M program in the four counties.

In order to obtain final approval of the I/M portion of its plan, the State must submit for USEPA's approval: (1) A detailed description of its enforcement mechansim based in part on the legislation set forth in the preceding paragraph; (2) a detailed description of the resources which the State will provide to implement its I/M enforcement plan; (3) a demonstration that its I/M program meets the Act's RACT requirements; and (4) satisfaction of the other deficiencies stated both in a technical support document dated June 29, 1984, and the October 9, 1984, **Federal Register** notice (49 FR 39574).

3. Northwest Indiana/Interstate Ozone Attainment Demonstration

Section 110(a)(2)(E) of the Act requires that a SIP contain adequate provisions to prevent sources in one state from interfering signficantly with attainment and maintenance of the NAAQS in neighboring states. Indiana was required to submit an ozone attainment demonstration for Lake and Porter Counties which would also ensure that sources in those counties would not interfere signficantly with attainment in northeastern Illinois and southeastern Wisconsin.

On April 22, 1985, Illinois submitted to USEPA a proposed revision to the ozone attainment demonstration for northeastern Illinois. The proposal showed that a 46 percent reduction in VOC emissions from the 1979 base inventory to the projected 1987 inventory would be necessary in order to attain the NAAQS by 1987 throughout the interstate area. These reductions would be accomplished primarily through RACT level controls for Group II, Group III, and major, non-CTG sources and implementation of its vehicle I/M program. A substantial portion of the necessary reduction has already been achieved.

On October 25, 1985, Indiana adopted by reference Illinois' modeling analysis of emission reduction requirements as part of the Indiana ozone plan. In addition, Indiana submitted a revised VOC emissions inventory for Lake and Porter Counties, which reflected a substantial reduction from 1979 to 1987 in VOCs from coke oven by-product recovery plants. This reduction will be obtained if USEPA promulgates regulations controlling coke oven by-product emissions under its National Emissions Standards for Hazardous Air Pollutants (NESHAPS) program.

However, even if such promulgation occurs by 1987, certain applicable sources could be granted 2-year compliance waivers, pursuant to 40 CFR 61.11. Therefore, as a contingency measure, Indiana committed to adopt, as necessary, a range of control measures in Lake and Porter Counties, including State regulation of coke oven by-product recovery plants, Stage II vapor recovery, and expansion of RACT rules for smaller VOC suurces, sufficient to meet the remaining portion of the 46% reduction which is necessary to attain the ozone NAAQS by 1987.

USEPA is proposing to approve Indiana's ozone attainment demonstration because it assures attainment and maintenance of the ozone NAAQS. This approval is contingent upon Indiana's commitment to adopt rules to meet the required reductions. Any rules or control strategies must be fully approvable and enforceable and must be effective prior to the end of 1987 in order for USEPA to approve the ozone attainment demonstration as a final action. However, as of October 1986, USEPA notes that Indiana has failed to adopt a rule limiting emissions from coke oven by-product recovery plants. This is at least partially due to delays in the promulgation of a Federal NESHAPS for this source category.

USEPA additionally notes that the State has not adopted any alternative control strategies in order to meet the 46% required reduction by 1987. If Indiana fails to adopt the necessary rules or control strategies by the time USEPA proceeds with final rulemaking on the attainment demonstration, or if Indiana otherwise fails to demonstrate that the 46% level of reduction will be met by the end of 1987, at the time of final rulemaking USEPA will disapprove the State's attainment demonstration without further reproposal.

4. Ozone Plan for Clark and Floyd Counties

In the February 8, 1985, State submittal to USEPA, new reduction factors for Group III and major, non-CTG sources were incorporated in order to update the VOC inventory for Clark and Floyd Counties. In addition, emissions reductions from implementation of TCM's were included. The SIP strategy called for a 34.3% VOC emissions reduction for Clark and Floyd Counties and a 32.7% reduction for the Louisville Interstate AQCR to occur between 1980 and 1987. A 32% reduction is required to attain the ozone NAAQS in the interstate Louisville area. The submittal also included the required demonstration of reasonable further progress (RFP), which showed annual emission reductions from 1980 to 1987 that equaled or exceeded a linear reduction rate.

On July 3, 1985, Indiana submitted a schedule for adopting and submitting major, non-CTG source control regulations for VOCs. The schedule called for State Board adoption of major, non-CTG source regulations by January 1986 with a final promulgation date in April or May 1986. The submittal also included documentation of a whiskey warehouse operation in Jeffersonville, Indiana (Clark County) which was scheduled to phase out fermentation processing, leading to a permanent closure by 1987. The plant closing

represented a significant reduction in VOC emissions. The State committed to not using these reductions as emissions offsets for potential new sources in the area, thereby avoiding a mere transfer of emissions from the closing source to any new sources. Lastly, the submittal included revised non-CTG source reductions and an updated RFP report for Clark and Floyd Counties. Although RFP reductions between 1983 and 1984 were somewhat less than reductions represented by linear RFP, reductions returned to a linear rate between 1984 and 1985 and continued at this rate to 1987.

On December 13, 1985, in response to USEPA's July 18, 1985, letter concerning Indiana's deficient control plans, the State submitted a revised schedule for State Board adoption and final promulgation of major, non-CTG source control regulations for VOCs. The schedule called for final promulgation of regulations in October or November 1986. Such promulgation and subsequent enforcement of non-CTG VOC source regulations, when combined with other point, area and mobile source reductions, should ensure attainment of the ozone NAAQS in Clark and Floyd Counties by 1987.

USEPA is proposing to approve Indiana's ozone attainment demonstration for Clark and Floyd Counties because it assures attainment and maintenance of the ozone NAAQS. This approval is contingent upon Indiana's commitment to adopt non-CTG RACT rules to meet the required reductions. Any rules or control strategies must be fully approvable and enforceable and must be effective prior to the end of 1987 in order for USEPA to approve the ozone attainment demonstration for Clark and Floyd Counties as a final action. However, as of October 1986, USEPA notes that Indiana has failed to adopt rules limiting emissions from non-CTG RACT sources. USEPA additionally notes that the State has not adopted any alternative control strategies in order to meet the 32% level of reduction by 1987. If Indiana fails to adopt the necessary rules or control strategies by the time USEPA proceeds with final rulemaking on the attainment demonstration, or if Indiana otherwise fails to demonstrate that the 32% level of reduction will be met by the end of 1987, at the time of final rulemaking USEPA will disapprove the State's attainment demonstration for Clark and Floyd Counties without further reproposal.

5. CO Plan for Lake County

As stated previously, USEPA proposed to approve Indiana's CO SIP for Lake County on October 9, 1984 (49 FR 39574). Using available monitoring data, a rollback analysis shows that CO emissions must be reduced by 10% from 1981 to 1987 in order to achieve the CO NAAQS in the current nonattainment area by 1987. The Federal Motor Vehicle Control Program (FMVCP) will produce mobile source CO emission reductions of 35% from 1981 to 1987. (The FMVCP provides for emission reductions derived from pollution controls on late-model vehicles.) Thus, RFP would be easily illustrated.

Based on the above information, USEPA reproposes to approve Indiana's attainment demonstration for the CO nonattainment area in Lake County because it fulfills the SIP requirements of Part D of the Act, which pertains to nonattainment areas.

C. Summary

USEPA is proposing the following actions as part of today's rulemaking:

(1) USEPA proposes to disapprove Indiana's transportation control plan, unless the State provides the information, described earlier in this notice, within the comment period associated with this notice.

(2) USEPA is deferring action on the I/M portion of Indiana's SIP. However, in order to obtain final approval of that portion, the State must submit for USEPA's approval those elements of an approvable I/M program previously discussed in this notice.

(3) USEPA proposes to approve Indiana's ozone attainment demonstration for Lake and Porter Counties based on the State's adoption of Illinois' analysis of emission reduction requirements and the State's commitment to adopt sufficient VOC control measures to achieve the necessary reductions, including, if necessary, Stage II vapor recovery and expansion of VOC RACT rules for smaller sources.

(4) USEPA proposes to approve Indiana's ozone attainment demonstration for Clark and Floyd Counties based on the State's commitment to adopt major, non-CTG VOC source regulations along with previously claimed point, area and mobile source VOC reductions.

(5) USEPA proposes to approve Indiana's CO attainment demonstration for the nonattainment area within Lake County.

However, as previously discussed in this notice, USEPA will disapprove Indiana's ozone attainment demonstrations for Lake and Porter Counties and Clark and Floyd Counties unless the State takes the necessary steps prior to final rulemaking to assure attainment and maintenance of the ozone NAAQS by the end of 1987.

If USEPA ultimately disapproves any significant part of the Indiana 1982 ozone/CO SIP, the section 110(a)(2)(I) construction ban will automatically go into effect for the area and pollutant in question. USEPA will also consider at that time whether or not it is appropriate to impose any or all of the restrictions contained in section 176(a). For further dicussion of the circumstances under which USEPA would impose these restrictions, see *Guidance Document for Correction of Part D SIP's for Nonattainment Areas*, January 27, 1984.

USEPA is soliciting comments on the 1982 ozone/CO plans submitted by Indiana and USEPA's proposed action on these plans. Additional comments on the plans are included in the following USEPA analyses:

1. Technical Review of Recent Revisions to 1982 Ozone SIP for Northwest Indiana, December 31, 1985.
2. Technical Review of Indiana's 1982 Ozone Attainment Demonstration Coke By-Product Recovery Plant VOC Emissions, June 26, 1985.
3. Discussion of Interstate Ozone Demonstrations of Attainment, May 15, 1985.
4. Final Technical Review of Indiana's 1982 Carbon Monoxide State Implementation Plan (Lake County), April 12, 1985.
5. Final Technical Review of Indiana's 1982 Ozone State Implementation Plan for Clark and Floyd Counties, September 12, 1985.
6. Technical Support Document for the Transportation Control Measures Portion of the Indiana 1982 Ozone/CO State Implementation Plan, January 27, 1984.
7. Review of the Indiana Vehicle Inspection and Maintenance Program and Related Federal Restrictions, July 18, 1985.

USEPA is also soliciting comments on the comments and analyses included within these documents. The documents are available for public inspection at the offices listed in the addresses section of this proposal. All comments on this notice should be received by the Region V office within 60 days of the date of this notice.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.) If USEPA takes final action to disapprove any part of the Indiana Part D plan for ozone or CO, then a moratorium on the construction and modification of major stationary sources

for that pollutant (VOCs for ozone) will go into effect in certain portions of the State. USEPA does not have sufficient information to determine the impacts a moratorium may have on small entities, because it is difficult to obtain reliable information on future plans for business growth. However, because USEPA cannot be certain of the potential impact on small entities, the Agency invites comments on this issue. Even if a disapproval action, when promulgated, were to have a significant impact on a substantial number of small entities, the Agency could not modify the action. Under the Clean Air Act, the imposition of a construction moratorium is automatic and mandatory whenever the Agency determines that a plan for a nonattainment area fails to meet the requirements of Part D of the Act.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review.

Authority: 42 U.S.C. 7401–7642.

Dated: March 28, 1986.

Valdas V. Adamkus,

Regional Administration.

Editorial Note: This document was received at the Office of the Federal Register on January 21, 1987.

[FR Doc. 87–1627 Filed 1–23–87; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 52

[A–8–FRL–3146–2]

Approval and Promulgation of State Implementation Plans, Montana; Great Falls CO Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the Montana State Implementation Plan (SIP) which provides for attainment of the Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) in the Great Falls CO nonattainment area. This plan revision was submitted by the Governor of Montana on March 28, 1986, as required under section 110 of the Clean Air Act (CAA). The March 28 submittal also included modification to the State stack height regulations; these regulations will be addressed in a separate rulemaking.

DATE: Comments due on or before February 25, 1987.

ADDRESS: Written comments should be addressed to:

Robert R. DeSpain, Chief, Air Programs Branch, Environmental Protection Agency, One Denver Place, Suite 1300, 999 18th Street, Denver, Colorado 80202

Copies of the revision are available for public inspection between 8:00 a.m. and 4:00 p.m. Monday through Friday at the following offices:

Environmental Protection Agency, Region VIII, Air Programs Branch, One Denver Place, Suite 1300, 999 18th Street, Denver, Colorado 80202

Environmental Protection Agency, Montana Operations Office, Federal Building, Room 292, 301 South Park, Helena, Montana 59626

FOR FURTHER INFORMATION CONTACT: Lee Hanley, Air Programs Branch, Environmental Protection Agency, One Denver Place, Suite 1300, 999 18th Street, Denver, Colorado 80202, (303 293–1757

SUPPLEMENTARY INFORMATION: On December 24, 1979, the State of Montana requested EPA to designate a portion of the City of Great Falls from attainment to nonattainment for carbon monoxide (CO). The State's request was based on monitoring of the northeast corner of the intersection of 10th Avenue South and 9th Street in Great Falls which recorded violations of the 8-hour National Ambient Air Quality Standard (NAAQS) of 9 parts per million (ppm) during the winter of 1977–78 and 1978–79. The highest 8-hour concentration recorded was 14.2 ppm, which occurred on February 17–18, 1978. The one-hour CO NAAQS of 35 ppm was never exceeded.

EPA responded on March 28, 1980 (45 FR 20501), with a proposal to modify the State's request by redesignating the entire city as nonattainment. Adverse comments, specifically from the City of Great Falls, of inaccurate monitoring and modeling data were made to EPA's proposal. EPA did not agree with the City's arguments but did recognize that there was insufficient monitoring and modeling data as well as inconclusive evidence to designate areas nonattainment other than that area, which was monitored and which showed violations of the CO standard.

Therefore, on September 9, 1980 (45 FR 59315), EPA limited the nonattainment designation to the following subarea of Great Falls: that area between 9th Avenue South on the north, and 11th Avenue south on the south, and between 2nd Street on the west, and 54th Street on the east. This is the area that was originally recommended for nonattainment by the State Air Quality Bureau on the assumption that the violations of the CO standard were due to high traffic levels along this route.

In addition to the nonattainment area, EPA identified a study area, hereafter known as the Central Business District (CBD). Within this study area, and as part of the development of its Transportation Control Plan, the City was to analyze certain street intersections and street segments for violations of the CO standrds. The analyses were to be conducted according to procedures acceptable to the State in consultation with EPA. Intersections and street segments in terms of volume-capacity ratios and travel speed were to be analyzed until the study could ensure that the analyses of additional segments and intersections will not result in any more predicted violations.

The CBD study began with monitoring in the downtown area where high CO reading were expected (monitor was located on 411 Central Avenue). Monitoring along 10th Avenue South was also occuring at this time. The study included monitoring, meteorological, modeling and statistical analyses from which the state concluded that traffic along 10th Avenue South was not the sole source of CO emissions, but that there was in fact an areawide problem.

The state's study determined that occasionally each winter, chinook winds override a shallow layer of cooler air. Air would then be confined by the river valley sides and would persist for the longest time in the lower areas close to the river. The study also found that high CO levels on days with significant trapping were caused by the concentration of all CO emissions over the entire city. That is, the high levels reflected not only the CO emissions close to the monitors for those hours, but also the residual CO emitted previously from upwind sources that were concentrated by the lowering of the mixing height.

Since the CO violations were not directly caused only by traffic emissions on 10th Avenue South, projects to improve the flow of traffic would not directly prevent future violations. The violations represent a concentration of total area emissions. Thus, a reduction of total emissions in Great Falls was needed to lower the CO levels a proportionate amount.

In 1977, motor vehicles comprised more than 80% of all the CO emissions. The second largest emission was a point source, the Phillps Refinery. The source is located one mile north of downtown and is 14% of the area wide CO emissions. The State reviewed its 1977

emission inventory from which they projected a 1985 inventory using State source files, State environmental impact statement files, Mobile 2 emission factors, census reports, the city of Great Falls Transportion Plan and the "Survey of Residential Wood Use".

Elements of the Great Falls CO SIP were developed with adoption of the Plan on March 7, 1984. The Plan consisted of the (1) reduction in automobile emissions through turnover of older model-year vehicles with newer model-year vehicles, (2) reduction of CO emissions from the Phillips Refinery, and (3) traffic improvement along 10th Avenue South which would reduce the amount of carbon monoxide along the corridor. These included widening of the Warden Bridge from 2 lanes to 4 lanes, Expanding the Missiouri River Bridge, improving traffic light signalization along 10th Avenue South, and implementing a mass transit system.

The attainment demonstration utilized only emission reductions from (1) and (2) above. The reductions in (3) (which were implemented and completed in November 1983) were not relied upon in any calculation.

The Montana CO SIP revision for Great Falls was submitted to EPA by Governor Ted Schwinden in a letter dated March 20, 1984. During EPA's review, two areas of concern surfaced; (1) EPA questioned the location of the monitor on 10th Avenue South and 24th Street and the fact that no violations had been recorded since April 1980 and (2) the State became aware of an emission reduction problem at the Refinery.

Originally, the CO monitor was located just north of 10th Avenue South and east of its intersection with 9th Street. This location recorded violations of the 8-hour CO NAAQS. In April 1980, the CO monitor was moved to a location on 10th Avenue South and 24th Street where no violations of the standard have occurred. EPA requested that a monitoring site be established to monitor CO levels along 10th Avenue South which is between the river and the former location at 9th Street. The 10th Avenue South and 24th Street site appeared to be located at a higher elevation than the inversion layer which caused the previous air quality problem. (The 24th Street site was 110 feet higher in elevation than the 9th Street site.)

The State had corrected this problem in November 1983, when it relocated the monitor on 10th Avenue South and 24th Street to 10th Avenue South and 8th Street (Pardis Clinic). The SIP as submitted on March 20, 1984, did not state the relocation of the sampler. Clarification was later provided to EPA.

The error in the emission inventory was discovered during a review of the Plan's implementation. The State had issued a permit to Phillips Petroleum which allowed new boiler burners at the Fluid Catalytic Cracking (FCC) Unit to be installed which would have decreased CO emissions from the unit from 10,709 TPY to 1,825 TPY. The Refinery was subsequently sold and the present owner, Montana Refining Company (MRC), had no plans to carry out this project. Montana Refining is an existing source, not subject to any permit requirements or other regulations limiting CO emissions. The State needed to seek an agreement with MRC to reduce CO emissions. For this reason, the Governor's March 20, 1984 Plan submittal was withdrawn from EPA review.

A review of FCC Unit emissions revealed that use of an improved catalyst had reduced CO emissions to less than 4,700 TPY. On October 20, 1985, a permit was issued to MRC. (The State's analyses of the MRC permit application represents Best Available Control Technology.) A stipulation, dated December 5, 1985, was signed by the State and MRC; MRC agreed to abide by the conditions of the October 20th permit. The stipulation and permit are federally enforceable and locks in the refinery's CO emissions level. The permit and stipulation have been incorporated into the Great Falls CO SIP.

The State revised its emission inventory; the 1977 emissions were projected to 1986. The projections were based on the same information used earlier to project the 1985 emissions.

With the updating of its emission inventory and the MRC agreement, the Governor resubmitted a revision to the Montana CO SIP for Great Falls in a letter dated March 28, 1986. The SIP states an attainment date of December 1986.

EPA Action

In this notice, EPA is proposing to approve a revision to the Montana CO SIP for Great Falls as submitted on March 28, 1986, by the Governor of Montana. The Plan has been implemented and data in 1984 and 1985 have shown no violations of the CO NAAQS.

Under 5 U.S.C. 605(b), I certify that this SIP approval will not have a significant economic impact on a substantial number of small entities.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

The Administrator's decision to approve or disapprove the plan revisions will be based on whether they meet the requirements of sections 110(a)(2)(A)–(K) and 110(a)(3) of the Clean Air Act, as amended.

Authority: 42 U.S.C. 7401–7642.

Dated: September 5, 1986.

John G. Wells,

Regional Administrator.

[FR Doc. 87–1628 Filed 1–23–87; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 431

[BQC–21–P]

Medicaid Program; Revision of Medicaid Eligibility Quality Control (MEQC) Program Requirements

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: These proposed regulations would:

- Revise the requirements for the Medicaid eligibility quality control (MEQC) program to expand the basic operating requirements and modify some of the program elements and procedures.
- Establish a new performance-based threshold to determine whether or not a State that failed to meet the statutory national error rate standard is eligible to apply for waiver of a disallowance of Federal financial participation (FFP) in erroneous Medicaid payments, and establish more definitive criteria for evaluating waiver requests filed by States if they meet the threshold.
- Revise the method for determining quarterly error rate projections for States by eliminating the provision that allows a State to rebut the projected error rate made by HCFA.

These revisions are intended to strengthen the basic MEQC program and provide flexibility and incentives to States to produce accurate eligibility determinations.

DATES: To be considered, comments must be mailed or delivered to the appropriate address, as provided below, and must be received by 5:00 p.m. on March 27, 1987.

ADDRESS: Address comments in writing to: Health Care Financing Administration, Department of Health and Human Services, Attention: BQC–

21–P, P.O. Box 26676, Baltimore, Maryland 21207.

Please address a copy of comments on information collection requirements to: Office of Information and Regulatory Affairs, Attn.: Allison Herron, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503. If you prefer, you may deliver your comments to one of the following locations:

Room 309 G, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, D.C., or

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

In commenting, please refer to file code BQC–21–P. Comments will be available for public inspection as they are received, beginning approximately 3 weeks after publication, in Room 309–G of the Department's offices at 200 Independence Ave., SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202–245–7890).

FOR FURTHER INFORMATION, CONTACT: Randolph Graydon, (301) 597–1352.

SUPPLEMENTARY INFORMATION:

Background

The initial Medicaid Quality Control Program was begun in 1975 to assist States with the administration of the Medicaid program. Because management controls could not keep pace with the rapid growth of the Medicaid program, large sums of Medicaid funds were lost through payment for medical services to ineligible recipients. To meet the need for better controls, the Department, under the authority of section 1902(a)(4) of the Social Security Act (the Act), issued regulations in 1979 under 42 CFR 431.800 that required States to establish a program to review their eligibility determinations to ascertain what types of errors were being made so that they could plan corrective actions to prevent repetition of these errors and thus reduce the amount of erroneous payments.

Under the quality control program, States are required to select a sample of cases every month and review them for eligibility errors. A subsample of the State-selected cases is re-reviewed by HCFA to verify the State's findings. At the end of each review period, HCFA calculates a State's error rate on the basis of a combination of these State and Federal findings. If a State fails to complete a valid review for any period, HCFA assigns the State an error rate based on either a special sample or audit, the Federal subsample, or other arrangements. Federal financial participation (FFP) in Medicaid payments is disallowed to the extent that a State has a Medicaid eligibility quality control (MEQC) payment error rate that is above the appropriate target error rate or national standard.

Regulations under 42 CFR 431.801 through 431.804 provide the conditions for disallowances of FFP to States that fail to meet specified error rate target goals. Originally, in 1979, under § 431.801, any State with an eligibility error rate above a national weighted mean was required to reduce its eligibility error rate by 15.7 percent each year. However, Congress, under Section 201 of the Labor-HEW Appropriations Bill for Fiscal Year 1980 as referenced in the Continuing Resolution for Fiscal Year 1980 (Pub. L. 96–123), directed the Department to publish regulations that required all States to reduce their Medicaid payment error rates to 4 percent by September 1982 or be subject to a disallowance of FFP for errors associated with erroneous expenditures in excess of the target error rate. This directive was implemented in regulations under § 431.802. Under section 133 of the Tax Equity and Fiscal Responsibility Act (Pub. L. 97–248, enacted on September 3, 1982), Congress again addressed the target error rate by adding section 1903(u) to the Social Security Act. Section 1903(u) set the national standard at 3 percent and required States to achieve that standard in the third and fourth quarters of fiscal year 1983 and in each succeeding fiscal year, or be subject to disallowance of FFP equal to the percentage by which errors exceed the national standard. Section 1903(u) also established prospective withholdings from States quarterly grants of FFP based on error rate projections. Excluded from a State's error rate calculations, however, are payments made as a result of technical errors and payments made for services provided to any individual whose eligibility is determined by the Social Security Administration under section 1634 of the Social Security Act. The provisions of section 1903(u) are contained in regulations under 42 CFR 431.803 and 431.804.

The basic program requirements, conditions, and procedures under which MEQC reviews must be conducted, and the conditions under which disallowances are taken if error rates are not under the national standard, are contained in regulations under 42 CFR Part 431, Subpart P. The amendments that we are proposing in this document would add to these regulations operating, review, and sampling requirements and procedures for MEQC reviews and modify other MEQC elements to strengthen the MEQC program.

We note that section 12301 of Pub. L. 99–272, the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), calls for a study of quality control systems for the Aid to Families with Dependent Children Program under title IV–A of the Social Security Act and for the Medicaid Program. The study is to examine how best to operate quality control systems and provide reasonable data on which to base withholding FFP for excessive State levels of erroneous payments. We believe the amendments to the regulations we are proposing are necessary program improvements that should be pursued concurrently with the QC studies mandated by the COBRA. While those studies may ultimately revise the MEQC program, we believe there is no reason to delay these proposed revisions until results of the studies are known since they are aimed at improving administrative ease and efficiency for the States and Federal government.

In summary, we propose to—

- Set forth the basic procedures of the eligibility review process and require verification standards to ensure complete and accurate reviews of sample cases.
- Set forth the basic sampling requirements and allow the use of retrospective sampling.
- Modify reporting requirements by specifying new timeframes for completing reviews and reporting eligibility and payment findings to HCFA.
- Modify the provisions governing access to records to require the agency to mail to HHS staff complete State and local eligibility and payment records within 10 days of a request for these records.
- Revise the sample review requirements for denied or terminated cases (that is, negative case reviews) to permit States to apply for a waiver of these requirements and develop an alternative system that is superior to the existing system.
- Revise the list of examples of technical errors included in the definition of technical errors.
- Define the administrative period in the MEQC program during which States are allowed not to assess errors due to changes in circumstances that would cause the cases to be in error.
- Revise the approach for projecting quarterly error rates.
- Establish criteria that define which States may request a "good faith" waiver of a proposed disallowance of

FFP because a State has not met the national standard for an assessment period, and revise the criteria upon which waivers will be evaluated. These proposed revisions are discussed in detail under the "Provisions of the Proposed Regulations" section of this document.

Most of the MEQC program requirements are contained in one section (§ 431.800) of 42 CFR Part 431, Subpart P. We do not want to make this already detailed section cumbersome and difficult to use by adding other provisions. Therefore, we propose to redesignate the provisions of the existing § 431.800 into numerous sections. The proposed additions to and changes in MEQC program requirements are summarized in the preceding paragraph and discussed in detail under the section on "Provisions of the Proposed Regulations." We also propose to make editorial changes to convert paragraphs into separate sections, to correct cross-references, and to make other conforming changes necessary under our proposed redesignation.

Provisions of the Proposed Regulations

We propose to amend the MEQC program regulations under Subpart P of Part 431 as follows:

1. Eligibility Reviews

The MEQC review process is based on a monthly review of Medicaid cases identified through a statistically valid statewide sample of cases selected from the State's eligibility files. These reviews are conducted by the State agency, which determines whether the sampled cases meet applicable Medicaid eligibility criteria.

We propose to revise the regulations under § 431.800(d) (3), (4), and (5) to set forth major actions necessary for conducting the MEQC reviews and include them under a proposed § 431.812. These regulations now specify that each case in the sample be reviewed to identify eligibility errors and erroneous payments and that personal interviews be conducted to verify eligibility information. The proposed revisions would strengthen the regulatory requirements for MEQC reviews by clarifying the basic elements of the review process—for example, analysis of the case record, in-person interviews, and verification of eligibility through one primary or two secondary sources of evidence as defined by HCFA and through collateral contacts. We believe that putting these elements in regulation will enhance the uniformity of the MEQC program and, through the proper utilization by States of corrective actions, will reduce error rates and erroneous expenditures.

In addressing these basic elements of the quality control review process, we omitted addressing the basis on which Medicaid cases are to be reviewed. The Social Security Administration published a proposed rule in the **Federal Register** on June 18, 1985 (50 FR 25269) which provided that eligibility reviews of AFDC cases would be conducted against the appropriate Federal regulations or the statute in instances when the State's plan did not comply with State plan requirements in the Federal regulations or statute. Currently, HCFA is reassessing its policy on the basis for conducting Medicaid eligibility reviews. When we have completed this reassessment, we will address the issue of the basis of reviews in a separate rulemaking document.

We also propose to add a provision to the regulations relating to requirements for negative case reviews to permit States to apply for an alternate system waiver and develop a review method superior to the current review requirements (proposed § 431.812(c)). This option would be added to provide States with greater flexibility in their attempt to assure the correctness of their actions which have an adverse impact on applicants or recipients or both. States with alternate systems approved as superior under this proposed option would continue to be subject to the corrective action requirements in the regulations, but would be exempt from the monthly reporting requirements since results of a superior system may not be realized until the time a 6-month report is due. These States would be required to submit all planned changes and additions to HCFA for approval prior to implementation.

2. Sampling Requirements

The regulations under § 431.800(d)(2) require the selection of statistical samples of active and negative cases. We propose to revise these regulations so that they more specifically address sampling requirements such as the sampling plan, sample size, and sample selection procedures. Although States have flexibility in their methods of sampling, the basic sampling requirements are the same for all States.

We propose to include in proposed § 431.814 the basic sampling requirements and procedures, including the requirements for a sampling plan and the conditions for approval by HCFA. A sampling plan that would meet our requirements would include identification of the population to be sampled, the lists from which the sample is selected, the specific characteristics of the lists, the sample size, the sample selection procedures, and claims collection procedures. We would include a requirement that minimum sample sizes must follow those currently outlined in HCFA instructions—that is, sample sizes based on the State's relative level of Medicaid annual payment for active cases, and the number of negative case actions in the universe for negative cases.

We propose to allow States to retain the option of selecting a larger sample than the federally prescribed minimum sample size. FFP would be available for the additional State sampling and review costs if a State elects to increase its sample size. A State also may continue to review only the minimally required sample or a larger sample, but in either case, the State must agree to accept the reliability of the sample size it selects and provide as a part of its sampling plan a statement that it will not challenge the reliability of the error rates based on the sample size and resulting precision.

Second, we propose to allow a State to use retrospective sampling as a sampling methodology (proposed § 431.814(j)(2)). Retrospective sampling is a sampling technique designed to improve the precision of the MEQC error rate by grouping or stratifying Medicaid cases according to their dollar value. We propose to allow a State that elects this option to select an initial increased sample of Medicaid cases and identify the paid claims for each case. These cases would then be stratified by dollar amount into three strata and a second sample selected from each stratum. Eligibility and payment reviews of the cases selected in this second sample would then be completed by the State. While we currently propose to allow retrospective sampling as an option, we are considering mandating it as a requirement in the future. We specifically invite comments on our proposal to require retrospective sampling at a later date.

We also propose to revise the sampling requirements for the Medical Assistance Only (MAO) stratum of active cases. We propose to add two provisions under a proposed § 431.814(c) (2) and (3) to: (1) Require that the MAO stratum for active cases include reviews of cases that are 100 percent federally funded; and (2) require a State agency that determines Medicaid eligibility using Supplemental Security Income (SSI) criteria to divide its MAO stratum into two substrata—SSI cash cases and MAO cases.

Under the first provision, all States must sample and review cases that are 100 percent federally funded, such as Cuban refugee cases. We propose to add these cases to the MAO stratum because we wish to reduce erroneous payments in all areas of State Medicaid expenditures.

Under the second provision, in the MAO stratum sample, the Medicaid-only substratum would be the majority of cases in the sample and the SSI cash cases would be the minority of cases in the sample. The SSI substratum would contain 75 completed case reviews or one-half of the stratum sample, whichever is smaller. The review findings from each substratum would be weighted appropriately so the State error rate and disallowance liability would properly represent the overall stratum.

We are proposinq this requirement because it provides additional data on cases which are subject to State agency corrective action. This provides a better opportunity for State error rate reduction.

We also propose to include Aid to Families with Dependent Children (AFDC) overpayment errors caused by ineligible members as an area of review for Medicaid in the AFDC stratum. (These overpayment cases do not include individuals whose AFDC payments are reduced to zero by reason of recovery of overpayment of AFDC funds.) The State would review these cases to determine if the ineligible member is eligible for Medicaid. If the individual is ineligible for Medicaid, any claims paid on behalf of the individual would be collected to determine the amount of misspent Medicaid funds.

Finally, we would continue to exclude from the MEQC universe those cases for which Medicaid eligibility determinations are made exclusively by the Social Security Administration under an agreement under section 1634 of the Social Security Act. We also propose to exclude cases found eligible for Medicaid under title IV–E of the Act, effective with the review period beginning October 1986. These cases are administratively burdensome to review since access to adoption records and other necessary documentation is difficult to obtain.

3. Requirements for Case Review Completion and Submittal of Reports

The existing regulation, § 431.800(f), does not specify timeframes for completing individual sample case reviews and reporting the eligibility and payment error findings to HCFA. We propose to add new timeframes for completing eligibility sample case reviews under a proposed § 431.816. Under the proposed new timeframes for reviews of MAO eligibility active cases, States would be required to complete eligibility reviews and report their findings for 90 percent of the sample cases within 75 days after the end of each review month and 100 percent of the reviews of sample cases within 95 days of the end of the review month. For example, if the review month is April, a State would be required to complete its eligibility reviews and submit findings on 90 percent of the sample caseload by July 14, and the remainder of the cases (100 percent) by August 3. In addition, we propose that the MEQC findings be reported concurrently with the AFDC quality control findings for State agency-reported eligible individuals with the timeframes specified in the AFDC program regulations under 45 CFR 205.40(b)(2)(ii). Where appropriate for eligibility reviews extending to overpayments and ineligible cases reported by the AFDC quality control State agency, a State would be required to complete its reviews and report its findings within 5 days after the timeframes under the AFDC program—that is, 90 percent of the AFDC ineligible cases would be required to be completed within 80 days, 95 percent of the cases within 100 days, and 100 percent of the cases within 125 days.

We are proposing these revisions to correlate the completion requirements for the MEQC program more closely with related reporting requirements under the AFDC quality control program. This also would provide a better flow of case information and error rate data for State agency corrective action measures, more timely completion of the Federal subsample, and calculation of national error rates. We believe that these timeframes are reasonable and provide sufficient time to complete even the most difficult cases.

We propose to revise the timeframes for completing and reporting payment review findings to require States to complete payment reviews and submit reports on their findings within 30 days after the first day of the fifth month following the review month for MEQC reviews under the current system and 30 days from the sample selection month for retrospective sampling reviews. The current requirements under § 431.800(e)(3) provide that States must complete monthly reports on payment reviews and that States must wait 5 months after each sample month before accumulating paid claims for each case. We propose to revise these timeframes to delete the fifth month from the claims collection process, as it is only an administrative period to adjust claims paid in the fourth month. In a similar manner, we would consider eliminating the claims payment administrative period for the month following each of the 4 months in the claims collection period. We propose this change because the separation of the claims processing assessment system from the MEQC program has eliminated the need for the claims payment administrative period, and because the elimination of this administrative period would produce more timely error rate data.

4. Access to Records

In order to validate the State's MEQC findings, it is necessary to conduct a Federal re-review of the State's sample. Regulations under § 431.800(h) provide that the State agency must provide HHS access to all records pertaining to MEQC reviews. We propose to revise this provision to require the State agency to provide complete State and local payment and eligibility records or legible copies to HHS staff within 10 days of receipt of a request for these records. States would have to meet this requirement by mailing, at Federal expense, complete case records to HHS staff. This requirement should not be disruptive to the States and would result in more timely completion of the Federal re-review sample. We believe that this will not create a burden on States since mailing costs are paid by HCFA and because a number of States currently practice this method for both Medicaid and AFDC re-reviews. Moreover, we would allow exceptions in cases in which we decide that an alternate method would be more practical, such as when the case records are located in the same city as the regional office. We propose to amend § 431.800(h) (proposed to be redesignated as § 431.818) to specify that the agency must mail to HHS staff complete records or legible copies pertaining to its MEQC reviews within 10 days of receipt of a request, unless HCFA approves an alternate method.

5. Definition of Technical Error

A "technical error" is an error in an eligibility condition that, if corrected, would not result in a difference in the amount of medical assistance paid. We propose to exclude from the definition of technical error those errors resulting in failure to obtain social security numbers and failure to assign rights to third party benefits as a condition of eligibility for Medicaid.

Section 2367 of the Deficit Reduction Act (DRA) added a new section 1902(a)(45) to the Social Security Act

and amended section 1912 to modify the current assignment of rights option. This modification mandates that States require Medicaid applicants and recipients to assign to the State their rights to third party payments as a condition of eligibility. As a result, the amount of medical assistance paid could be different because States will recoup payments from third parties. Similarly, section 2651 of the DRA added a new section 1137(a) to the Social Security Act which mandates that States require, as a condition of eligibility, the furnishing of the social security number of each applicant for or recipient of Medicaid. The social security number is then used as an identifier when requesting wage and unearned income information for determining eligibility. Again, the amount of medical assistance paid could be different when the agency obtains wage or unearned income information affecting the individual's eligibility or payment liability or both.

Since these two provisions have been mandated by law as conditions of eligibility and because compliance with these provisions could result in a difference in the amount of medical assistance paid and no longer reflect the definition of technical errors, we are proposing to make failure to obtain social security numbers and failure to obtain assignment of rights to third party payments countable errors.

We also propose to revise the definition of technical error to clarify that errors other than those listed would be classified as technical errors only after they have been approved by HCFA and instructions have been issued to all State agencies advising them of the approved technical errors. This proposed change would ensure that technical errors are applied uniformly nationwide.

These changes are reflected in the proposed new § 431.865 to be effective for periods beginning October 1, 1987.

6. Rebutting the Projected Error Rate

Under existing regulations (§ 431.804(d)), HCFA projects a State's error rate as the lower of its most recent 6-month or 1 year error rate. If a State believes its projected error rate is not representative of current experience, the State may submit statistically valid evidence that demonstrates, with more recent data, that its error rate is statistically significantly lower than that projected by HCFA. This evidence must consist of a sample of at least 100 cases that shows an error rate statistically significantly lower than that projected. The sample must be validated by HCFA using acceptance sampling procedures.

For the January 1984, April 1984, and July 1984 quarters, 16 States were initially projected by HCFA to have error rates above 3 percent. All 16 States submitted rebuttal samples using one or more months of MEQC data from October 1982 and after. We have analyzed data from the full periods from which States submitted their rebuttal evidence. In comparing the rebuttal evidence from 1 to 3 months of data to the data from the full 6-month periods, we found an average difference of 1.70 percentage points between the rebuttal rate and the 6-month rate. In fact, 13 of 16 rebuttal projections were below the actual rates for the full 6-month periods. This indicates that the rebuttal process is inaccurate in that it underestimates current experience.

In addition, we compared the error rates based on the rebuttal data submitted by these 16 States to the error rates based on actual data from fiscal year 1984. We found that every error rate based on the rebuttal data underestimated the actual error rate within a range of .1 percentage point to 5.4 percentage points. Further, the actual error rate data revealed error rates above 3 percent for 13 States when the rebuttal data showed these 13 States to have error rates under 3 percent. In each quarter of fiscal year 1985, 11 States were projected to have error rates above 3 percent. Nine States successfully rebutted the findings each quarter. However, when the actual error rates were established, the rebuttal error rates submitted by the States underestimated the actual rates by .5 to 3.9 percentage points. These findings further support our belief that the rebuttal process is inaccurate because it underestimates States' actual error rates.

We considered the following three methods by which States could rebut projected error rates but rejected these alternatives because they also are inaccurate:

- We first considered that States could offer corrective action activities as a means of rebuttal. However, since that process was challenged in court by States which claimed that it was too subjective, and our previous experience indicated that this method was less accurate than unadjusted data in determining State error rates above 3 percent, we have rejected this option.
- We also considered revising the rebuttal criteria by requiring States to submit evidence from at least 3 months of later MEQC data and by making the acceptance criteria under § 431.804(d)(2)(iii) and (3) more strict. However, under the current rebuttal process, we have found that 3 months of rebuttal data submitted by States also resulted in an underestimation of current experience because of the large percentage difference between the error rate based on these data and the error rate projected by HCFA based on 6 months of data. The difference in error rates is caused by two factors:

1. Three months of data are not enough data to be a true indicator of current experience.

2. The rebuttal data are not adjusted for Federal re-review findings and, therefore, only reflect State findings.

Therefore, no matter how strict the acceptance criteria are made, they will continually result in an underestimation of current or future experience because of the inaccuracies of the State MEQC data used for rebuttal.

- Last, we considered projecting error rates on annual data as opposed to the lower of the most recent 6 month or annual assessment period. We are not selecting this option because, although we found (through a study we conducted that involved projecting error rates for all States using data from an annual period) that the annual data are a good predictor of error rates above 3 percent, the current method most benefits the States because it overestimates States projected error rates less frequently than the annual data.

Finally, in addition to our special studies and considerations of alternate rebuttal methods, our proposal to eliminate the rebuttal process is supported by the court's decision in *State of New Mexico et al.* v. *Otis R. Bowen*, No. 84–2129 (D.D.C., Oct. 31, 1986) that the statute requires only that estimated prospective error rates be adjusted appropriately if they prove to be inaccurate when actual data from the relevant period become available. The statute does not provide for continuous challenge to, and interim adjustments to, anticipated error rates. The court further stated that HCFA may act within its discretion to experiment with different methods of projecting error rates, provided these methods have a rational basis. We believe the studies discussed earlier are reliable and provide a rational basis for our conclusion that the rebuttal process underestimates States error rates.

We, therefore, propose to eliminate any rebuttal process for sampling periods beginning October 1, 1987. We propose to make the provisions for the rebuttal process under existing § 431.804(d) (proposed to be redesignated as § 431.864(d)) applicable only for quarters through September 30, 1987.

Our proposal to eliminate the rebuttal process means that HCFA would project error rates at the lower of the most recent 6-month or 1-year error rate completed by HCFA. We have demonstrated that, of all the options we have tried or studied, projecting the error rates at the lower of the most recent 6-month or 1-year error rate is the most accurate method of predicting whether or not a State's error rate is above the 3-percent national standard. We will be analyzing future error data when they are available and, therefore, may propose other revisions of the error rate projection process later if these revisions prove warranted.

7. Good Faith Waivers

The Michel Amendment (section 201 of the Labor HEW Appropriations Bill for Fiscal Year 1980 (H.R. 4389) as referenced in the Continuing Resolution for Fiscal Year 1980 (Pub. L. 96–123)) and Section 133 of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), Pub. L. 97–248, gave the Department authority to waive State fiscal liabilities "in certain limited cases" where, despite a good faith effort, a State has not met the error rate standard. Congress made it clear that this waiver process is to be limited to extraordinary circumstances. The Department has complete discretion in determining whether a State's fiscal liability should be waived, based on the Department's judgment about the circumstances shown by the State.

Regulations under § 431.802 established the criteria applicable to waiver requests filed under the Michel Amendment. These regulations were used in determining the Department's decision on the fiscal year 1981 waiver requests submitted by 12 States that exceeded their target. These waiver requests covered (1) extraordinary external events and circumstances such as workload changes and incorrect Federal policy guidance; and (2) documentation that the States timely developed and implemented a corrective action plan reasonably designed to meet the error rate.

(Later regulations applicable to periods beginning April 1, 1983 were issued at §§ 431.803 and 431.804.)

Under § 431.804 (proposed to be redesignated as § 431.864), if a State does not limit erroneous payments for an assessment period to the 3-percent national standard, HCFA will disallow FFP in erroneous payments in excess of 3 percent for that period unless the State is granted a waiver of this reduction. A State applying for a waiver under § 431.804(e) is given an opportunity to show that it failed to meet the national standard despite a good faith effort to do so. HCFA then determines whether this justification warrants a waiver of the proposed disallowance.

We propose to revise the factors on which HCFA will evaluate a request for a good faith waiver to: (a) Establish a new performance-based threshold to determine which States with error rates in excess of the statutory error standards are eligible to apply for waivers on the grounds that the States took what they believed to be the necessary actions to meet the national standard but were unsuccessful; and (b) for those States that are eligible to apply for a waiver by virtue of having met the threshold, establish more definitive criteria to be used by the Secretary to evaluate waiver requests filed by States on these grounds. These revisions would apply to erroneous payments and fiscal liabilities for MEQC sample periods beginning October 1, 1986, and would be reflected in a new § 431.865(e). The first waiver requests to be reviewed under these proposed criteria will be requests for waivers of the October 1986–September 1987 disallowances, which are not scheduled until August 1988. Waiver requests submitted for sample periods beginning October 1, 1983 through September 30, 1986 will be reviewed under the current criteria under § 431.804(e) (proposed to be redesignated as § 431.864(e)).

Based on the Department's experience in reviewing State waiver requests, we have determined that it is appropriate to revise the waiver process as follows:

a. The Performance Threshold

We propose to specify under a proposed new § 431.865(e)(2)(v) that, for erroneous payments identified in sample periods beginning October 1986, a State's error rate (after taking into account extraordinary external events such as natural disasters, as provided for in the regulations) must be less than its error rate for the preceding sample year and must not exceed the national mean error rate for the sample period under review (unless that national average error rate is below the present 3-percent national standard) for the State to be eligible to apply for a waiver based upon its implementation of correction actions.

We believe that this performance based measure is an appropriate way to comply with the legal requirements that waivers be limited to extraordinary circumstances and to reward those efforts which proved to be effective in reducing error rates or maintaining relatively low error rates. For example, if a State fails to meet the performance threshold, we believe it would be more advantageous for the State to devote its efforts to added or improved error reduction activities than to divert resources to document its previous error reduction actions.

Under our proposed change, all States would continue to be eligible to submit waiver requests based on extraordinary external events and circumstances (e.g., natural disasters), regardless of their actual error rates However, we want to reemphasize that waiver submissions relating to these events must be well documented to be considered. A State must clearly demonstrate the extraordinary nature of its circumstances, provide sufficient information to establish the extent to which the circumstance negatively affected the Medicaid program, specifically show the extent to which the circumstance affected the payment error rate during the sample period, and document management efforts to quickly and adequately respond to the situation.

This proposal does not change the congressional requirement that Federal funding for erroneous Medicaid payments be limited nor the expectation that States will improve their performance as a result of this requirement. Rather, the proposed regulations further clarify the basis on which the HCFA intends to exercise discretion to grant waivers.

b. Criteria for Evaluating Waiver Requests

When a State has qualified to request a waiver under § 431.865(e)(2)(v) based on the performance threshold outlined in paragraph a. above, we propose to determine if a full or partial waiver will be granted using four factors.

- Operation of a quality control system in accordance with Federal regulations and HCFA guidelines (e.g., adherence to Federal case completion requirements and verification standards).
- Formulation of error reduction initiatives based on the following processes:
- Performance of an accurate and thorough statistical and program analysis for error reduction purposes that utilizes quality control and other data;
- The translation of such analysis into specific and appropriate error reduction practices for major error elements; and
- The use of monitoring systems to verify that the error reduction initiatives were implemented at the local office level.
- The operation of the following systems supported by evidence of the timely utilization of their outputs in the

determination of case eliqibility and liability amount:

- The implementation and maintenance of the Income and Eligibility Verification System as mandated by section 2651 of the Deficit Reduction Act of 1984; and
- The operation of systems that interface with Social Security (e.g., BENDEX) data and, where the agency has access, data relating to motor vehicle, vital statistics, and State or local income and property taxes (where these taxes exist).
- The use of the following accountability mechanisms to ensure that agency staff adhere to error reduction initiatives:
- Performance standards indicating that appraisals for supervisors and workers include accuracy of eligibility and liability determinations and timely processing of case actions as quantitative measures of performance;
- Selective second-party case reviews are conducted. The review results are periodically reported to higher level management, as well as to supervisors and workers, and are used in employee appraisals; and
- Regular operational reviews of local offices are performed to evaluate the offices' effectiveness in meeting error reduction goals with periodic monitoring to ensure that review recommendations have been implemented.

We propose to require that a State must fully meet the performance standard of operating a quality control system in accordance with Federal regulations and HCFA quidelines and that a State must achieve substantial performance under the other three corrective action requirements before being considered for a full or partial waiver in accordance with § 431.865(e)(2)(v). We believe it is reasonable that a State must fully meet the first criterion (proposed § 431.865(e)(2)(v)(A)) since operating a quality control system in accordance with Federal requirements first indicates the State's commitment to effective quality control procedures and error reduction, and second provides the data on which the State can base corrective action efforts. For example, a State that meets Federal verification standards will ensure it has an accurate indication of the nature and causes of errors for corrective actions. Meeting case completion requirements gives the State data for timely corrective actions. Further, we believe that a State must achieve a substantial level of performance in formulation of error reduction initiatives, use of accountability mechanisms and operation of systems since this demonstrates that the State has analyzed and implemented error rate data and subsequent corrective actions and ensured that agency staff adhere to these initiatives and that the State has efficiently utilized verification sources. If a State has not achieved a substantial level of performance in these areas, we believe it is unlikely that the State made a good faith effort to effectively target error causes, implement corrective actions, and reduce its error rate.

These factors, along with their respective sub-items, are definitive and represent a results-oriented approach to effective error reduction (that is, they emphasize specific accomplishments rather than intended or planned actions).

c. Other Provisions.

These proposed revisions also clarify that HCFA's decisions on waivers are not subject to appeal to the Department's Grant Appeals Board (proposed §§ 431.864(f) and 431.865(f)). Because waivers are discretionary actions, which in effect permit greater Federal matching payments than authorized by law, HCFA's decision not to grant a waiver (either in full or in part) is not subject to appeal.

The proposed regulations also would change the timing of State waiver requests for the periods beginning October 1, 1986 and subsequent periods so that eligible States would be required to submit their requests within 30 days after receiving the notice of their error rates and the amount of potential disallowance (§ 431.865(e)(1)(i)).

8. Technical Changes

We propose to make several technical changes in the definitions under the existing § 431.800(b) (proposed to be redesignated as § $431.804) We propose to amend the definition of "active case" to clarify the specific requirement that the individual or family be *currently certified* eligible by the agency. We would revise the definition of "eligibility errors" to make it consistent with the definition of "erroneous payments" under § 431.804 (proposed to be redesignated as § 431.864). We also would revise the definition of "State agency" to clarify that the term also applies to the agency that has responsibility for the MEQC program within the State.

We would clarify that the definition of "erroneous payments" includes Medicaid payments made for cases in which an AFDC ineligible member is also ineligible for Medicaid. These payments must be included as erroneous payments since they are payments for Medicaid services furnished to an ineligible individual and, as such, are misspent Medicaid funds.

We propose to add a definition of "national mean error rate" to mean the payment weighted average of the eligibility payment error rates for all States.

We also propose to define the "administrative period" in the MEQC program. The current administrative period provides for a period of time for Medicaid recipients to report changes in their categorical or financial circumstances, for the State agency to act on these changes, and for timely notice to be given to these recipients of any change in their Medicaid eligibility. For purposes of MEQC, a change of circumstance has been viewed as a change in a common program area (for example, basic program requirements, resources, or income).

Concern has been expressed regarding the existing definition of a change of circumstances within the common program area. Discussions with the State Quality Control/Corrective Action Technical Advisory Group (TAG) have been held on this subject. In response to these discussions on the definition of changes in circumstances, we are proposing to select one of the following four options for defining the administrative period:

- Retain the current definition of the administrative period, including the present definition of a change of circumstances.
- Revise the current definition of the administrative period to apply it to individual changes in program areas. In this manner, a change in employment income and a change in the receipt of a pension each would have the administrative period applied to them, although they were both in the same program area.
- Abolish the use of the administrative period entirely.
- Revise the current definition of the administrative period to apply the change of circumstances only to the change that first makes the case incorrect. Thus, for example, if the case becomes incorrect because of the absence of a basic program requirement and subsequently had excess income, the case would be coded in error after the administrative period expired for the absence of the basic program requirement.

While the State TAG group recommends the second option, we believe that the fourth option should be adopted. The TAG group recommended option two because of the belief that the State agency should have an administrative period of time in which it

can act on each change in an individual's circumstances. We believe this is an overly broad interpretation and is inconsistent in that an administrative period would be given for changes in circumstance that would increase error amounts, while decreases in error amounts would be counted immediately. In addition, we believe that once an administrative period has been granted for a case that becomes in error, no further administrative period should be allowed. However, before implementing any definition of the administrative period, we will consider public comments on the four options or the introduction of other options on the use of this concept and its application to MEQC reviews.

We propose to revise the regulations (§§ 431.803(d)(3) (proposed to be redesignated as § 431.863(d)(3)), 431.804(d)(4) (proposed to be redesignated as § 431.864(d)(4)), and proposed new § 431.865(d)(2)) to clarify that the estimate referred to throughout the regulations is the estimate as determined by HCFA to be used for purposes of payment, as opposed to the State's estimate. Confusion over this issue, including a misapplication of HCFA s policy which resulted in a claim in a recent lawsuit (*State of Alaska* v. *Margaret M. Heckler, et al* (No. 85–024 (D. Alas., filed Oct. 4, 1985)), has highlighted the need for this clarifying change. The literal wording of the current regulations does not clearly reflect the intent of our operating policy.

Response to Public Comments

Because of the large number of public comments that we receive on proposed rules, we cannot acknowledge or respond to them individually. However, we will consider any comments received by the date specified under the Comment Period section of this document and respond to them in the preamble to the final regulations.

Impact Analysis

A. Introduction

Executive Order 12291 requires us to prepare and publish a regulatory impact analysis for regulations that are likely to have an annual effect on the economy of $100 million or more; cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local governments agencies, or geographic regions; or result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S. based enterprises in domestic or export markets. In addition, consistent with the Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 605(b)), we prepare and publish a regulatory flexibility analysis for regulations unless the Secretary certifies that the regulations will not have a significant economic impact on a substantial number of small entities.

B. Executive Order 12291

As noted elsewhere in the preamble, this proposal would revise the requirements of the MEQC program. The revisions are intended to strengthen the basic MEQC program and to provide flexibility and specific incentives to States to produce accurate eligibility determinations. Furthermore, these proposed changes would create certain benefits to both the Federal Government and to State Medicaid programs.

Primary among anticipated benefits is maintenance of the integrity of the Medicaid program. Continued improvements in the Medicaid eligibility quality control program, as exemplified by these proposed revisions, should ensure that Federal and State expenditures are made for eligible recipients and services only. However, while this proposal aims to further reduce the amount of erroneous program payments' we cannot quantify the expected benefits. This results from our belief that quality control initiatives produce a sentinel effect on State programs and providers to encourage adherence to existing laws and regulations. The benefits derived from the Medicaid eligibility quality control initiatives, as well as these proposed changes, are the value of the entire Medicaid program and the benefits realized from its efficient and effective operation.

Other State and Federal benefits derived specifically from these proposed regulations include:

1. A strengthened review process resulting in more accurate eligibility and payment determinations;
2. State flexibility in selecting retrospective sampling;
3. More timely exchange of AFDC and Medicaid program data to determine the existence of eligibility and payment errors;
4. More timely receipt of State eligibility records for Federal re-reviews, with State mailing costs being paid for in total by the Federal Government;
5. Removal of State rebuttal of projected error rates. Historically, States tend to underestimate the extent of eligibility and payment determination errors. These underestimations can be counterproductive in regard to the efficiency and integrity of the Medicaid program by not accurately identifying the extent of these costly problems.

Earlier in our analysis, we concluded that these proposed changes do not result in an annual economic impact that is measurable. However, we can identify certain benefits that should accrue to both Federal and State Medicaid programs from the implementation of these proposals. We believe that these benefits offset any costs incurred by States and as required by the Executive Order, this positive benefit/cost profile provides the needed basis for issuing these proposed regulations. Since the economic impact on these proposed regulations does not meet any of the threshold criteria of section 1(b) of the Executive Order, a regulatory impact analysis is not required

C. Regulatory Flexibility Act

We have determined that these proposed regulations affect only the Federal Government and State Medicaid agencies. These parties do not fall into the category of small government jurisdictions as defined in section 601(5) of the Regulatory Flexibility Act. Therefore, the Secretary certifies that these proposed regulations would not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

Proposed redesignated §§ 431.806, 431.810, 431.812, 431.814, 431.816, 431.818, 431.820, 431.822, 431.830, 431.832, 431.834, 431.836, and 431.864 contain information collection and recordkeeping requirements that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980. A notice will be published in the **Federal Register** when approval is obtained. Other organizations and individuals desiring to submit comments on the information and collection requirements should follow the directions in the **ADDRESS** section of this preamble.

List of Subjects in 42 CFR Part 431

Grant programs-health, Health facilities, Medicaid, Reporting and recordkeeping requirements.

REDESIGNATION TABLE

Existing section	Proposed new section
431.800(a)(1)	431.802.
431.800(a)(2)	431.800.
431.800(b)	431.804.
431.800(c)(1)	431.806(a).
431.800(c)(2)	431.806(b).
431.800(d)(1)	431.810.
431.800(d)(2)	431.814(g).
431.800(d)(3)	431.812 (a) and (b).
431.800(d)(4)	431.812(d).

REDESIGNATION TABLE—Continued

Existing section	Proposed new section
431.800(d)(5)	431.812(e).
431.800(d)(6)	431.814(f).
431.800(d)(7)	431.814(j)(1).
431.800(e)	431.830.
431.800(f), introductory statement.	431.816(a).
431.800(f)(1)	431.814(a).
431.800(f)(2)	431.816 (b)(1), (b)(2), and (b)(3).
431.800(f)(3)	431.816(b)(4).
431.800(f)(4)	431.816(b)(5).
431.800(f)(5)	431.816(b)(6).
431.800(g)	431.832.
431.800(h)	431.818 and 431.834.
431.800(i)	431.820.
431.800(j)	431.836.
431.800(k)	431.808.
431.801	431.861.
431.802	431.862.
431.803	431.863.
431.804	431.864.

DERIVATION TABLE

Proposed new section	Existing section
431.800(a)	431.800(a)(2).
431.800(b)	New.
431.802	431.800(a)(1).
431.804	431.800(b).
431.806(a)	431.800(c)(1).
431.806(b)	431.800(c)(2).
431.808	431.800(k).
431.810	431.800(d)(1).
431.812 (a) and (b)	431.800(d)(3).
431.812(c)	New.
431.812(d)	431.800(d)(4).
431.812(e), introductory statement and (2).	431.800(d)(5).
431.812(e) (1), (3), (4), (5), (6), and (7).	New.
431.814(a)	431.800(f)(1).
431.814 (b), (c), (d), and (e).	New.
431.814(f)	431.800(d)(6).
431.814(g)	431.800(d)(2).
431.814 (h) and (i)	New.
431.814(j), introductory statement.	New.
431.814(j)(1)	431.800(d)(7).
431.814(j)(2)	New.
431.816(a)	431.800(f).
431.816(b) (1), (2), and (3).	431.800(f)(2).
431.816(b)(4)	431.800(f)(3).
431.816(b)(5)	431.800(f)(4).
431.816(b)(6)	431.800(f)(5).
431.818	431.800(h).
431.820	431.800(i).
431.822	New.
431.830	431.800(e).
431.832	431.800(g).
431.834	431.800(h).

DERIVATION TABLE—Continued

Proposed new section	Existing section
431.836	431.800(j).
431.861	431.801.
431.862	431.802.
431.863	431.803.
431.864	431.804.
431.865	New.

42 CFR Part 431 would be amended as set forth below:

PART 431—STATE ORGANIZATION AND GENERAL ADMINISTRATION

1. The authority citation for Part 431 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302), unless otherwise noted.

2. The table of contents for Part 431 is amended by revising Subpart P to read as follows:

PART 431—STATE ORGANIZATON AND GENERAL ADMINISTRATION

Sec.

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Subpart P—Quality Control

General Provisions

431.800 Scope of subpart.
431.802 Basis.
431.804 Definitions.
431.806 State plan requirements.
431.808 Protection of recipient rights.

Medicaid Eligibility Quality Control (MEQC) Program

431.810 Basic elements of the Medicaid eligibility quality control (MEQC) program.
431.812 Review procedures.
431.814 Sampling plan and procedures.
431.816 Case review completion deadlines and submittal of reports.
431.818 Access to records: MEQC program.
431.820 Corrective action under the MEQC program.
431.822 Resolution of differences in State and Federal case eligibility or payment findings.

Medicaid Quality Control (MQC) Claims Processing Assessment System

431.830 Basic elements of the Medicaid quality control (MQC) claims processing assessment system.
431.832 Reporting requirements for claims processing assessment systems.
431.834 Access to records: claims processing assessment systems.
431.836 Corrective action under the MQC claims processing assessment systems.

Sec.

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Subpart P—Quality Control

Federal Financial Participation

431.861 Disallowance of Federal financial participation for erroneous State payments (effective through September 1980).
431.862 Disallowance of Federal financial participation for erroneous State payments (effective Ocober 1, 1980 through September 30, 1982).
431.863 Disallowance of Federal financial participation for erroneous State payments during the period April 1 through December 31, 1983.
431.864 Disallowance of Federal financial participation for erroneous State payments (effective January 1, 1984 through September 30, 1987).
431.865 Disallowance of Federal financial participation for erroneous State payments (effective October 1, 1987).

* * * * *

3. Subpart P is amended as follows:

a. Sections 431.801, 431.802, 431.803, and 431.804 are redesignated as §§431.861, 431.862, 431.863, and 431.864 respectively.

Section 431.800 is revised and new §§ 431.802 through 431.836 are added, to read as follows.

General Provisions

§ 431.800 Scope of subpart.

This subpart—

(a) Establishes State plan requirements for a Medicaid eligibility quality control (MEQC) program designed to reduce erroneous expenditures by monitoring eligibility determinations and a claims processing assessment system that monitors claims processing operations.

(b) Establishes rules and procedures for disallowing Federal financial participation (FFP) in erroneous Medicaid payments due to eligibility and recipient liability errors as detected through the MEQC program.

§ 431.802 Basis.

This subpart implements the following sections of the Act, which establish requirements for State plans and for payment of Federal financial participation (FFP) to States:

1902(a)(4) Administrative methods for proper and efficient operation of the State plan.

1903(u) Limitation of FFP for erroneous medical assistance expenditures.

§ 431.804 Definitions.

As used in this subpart—

"Active case" means an individual or family determined to be currently

certified as eligible for Medicaid by the agency.

"Claims processing error" means FFP has been claimed for a Medicaid payment that was made—

(1) For a service not authorized under the State plan;

(2) To a provider not certified for participation in the Medicaid program;

(3) For a service already paid for by Medicaid; or

(4) In an amount above the allowable reimbursement level for that service.

"Eligibility error" means that Medicaid coverage has been certified or payment has been made for a recipient under review who—

(1) Was ineligible when certified or when he received services; or

(2) Was eligible for Medicaid but was ineligible for certain services he received; or

(3) Had not met recipient liability requirements when certified eligible for quirements when certified eligible for Medicaid; that is, he had not incurred medical expenses equal to the amount of this excess income over the State's financial eligibility level or he had incurred medical expenses that exceeded the amount of excess income over the State's financial eligibility level, or was making an incorrect amount of payment toward the cost of services.

"Negative case action" means a Medicaid application that was denied or otherwise disposed of without a determination of eligibility (for instance, because the application was withdrawn or abandoned) or an individual or family for whom Medicaid eligibility was terminated or has responsibility for the MEQC program within the State.

§ 431.806 State plan requirements.

(a) *MEQC program.* A State plan must provide for operating a Medicaid eligibility quality control program that meets the requirements of §§431.810 through 431.822 of this subpart.

(b) *Claims processing assessment system.* Except in a State that has an approved Medicaid Management Information System (MMIS) under Subpart C of Part 433 of this subchapter, a State plan must provide for operating a Medicaid quality control claims processing assessment system that meets the requirements of §§431.830 through 431.836 of this subpart.

§ 431.808 Protection of recipient rights.

Any individual performing activities under the MEQC program or the claims processing assessment system specified in this subpart must do so in a manner that is consistent with the provisions of §§435.902 and 436.901 of this subchapter concerning the rights of recipients.

Medicaid Eligibility Quality Control (MEQC) Program

§ 431.810 Basic elements of the Medicaid eligibility quality control (MEQC) program.

(a) *General requirements.* The agency operate the MEQC program in accordance with this section and §§ 431.812 through 431.822 and other instructions established by HCFA.

(b) *Review requirements.* The agency must conduct MEQC reviews in accordance with the requirements specified in § 431.812 and other instructions established by HCFA.

(c) *Sampling requirements.* The agency must conduct MEQC sampling in accordance with the requirements specified in § 431.814 and other instructions established by HCFA.

§ 431.812 Review procedures.

(a) *Active case reviews.* The agency must review all active cases (except Supplemental Security Income (SSI) recipient cases in States with contracts under section 1634 of the Act for determining Medicaid eligibility and cases involving children found eligible under title IV–E of the Act) selected from the State agency's lists of cases certified eligible for the review month, to determined if the cases were eligible for services during all or part of the month under review, and, if appropriate, whether the proper amount of recipient liability was computed.

(b) *Negative case reviews.* Except as provided in paragraph (c) of this section, the agency must review those negative cases selected from the State agency's lists of cases that are denied, suspended, or terminated in the review month to determine if the reason for the denial, suspension, or termination was correct and if requirements for timely notice of negative action were met. A State's negative case sample size is determined on the basis of the number of negative case actions in the universe.

(c) *Alternate systems of negative case reviews.*—(1) Waiver of review requirements. A State may be granted a waiver of the negative case review requirements specified in paragraphs (b) and (e)(2) of this section and in § 431.814(d) upon HCFA's approval of a plan for the use of a superior system.

(2) *Submittal of plan for alternate system.* An agency must submit its plan for the use of a superior system to HCFA for approval at least 60 days before the beginning of the review period in which it is to be implemented. If a plan is unchanged from a previous period, the agency is not required to resubmit it. The agency must receive approval for a plan before it can be implemented.

(3) *Requirement for alternate system.* To be approved, the State's plan must—

(i) Clearly define the purpose of the system and demonstrate how the system is superior to the current negative case review requirements.

(ii) Contain a methodology for identifying problem areas that could result in erroneous denials, suspensions, and terminations of applicants and recipients. Problem areas selected for review must contain at least as many applicants and recipients as were included in the negative case sample size previously required for the State.

(iii) Provide a detailed methodology describing how the extent of the problem area will be measured through sampling and review procedures, the findings expected from the review, and planned corrective actions to resolve the problem.

(iv) Include documentation supporting the use of the system methodology. Documentation must include the timeframes under which the system will be operated.

(v) Provide a superior means of monitoring denials, terminations, and suspensions than that required under paragraph (b) of this section.

(vi) Provide a statistically valid error rate that can be projected to the universe that is being studied.

(d) *Reviews for erroneous payments.* The agency must review all claims for services furnished during the review month to all members of each active case related in the sample to identify erroneous payments resulting from—

(1) Ineligibility for Medicaid;

(2) Ineligibility for certain Medicaid services; and

(3) Recipient understated or overstated liability.

(e) *Reviews for verification of eligibility status.* The agency must collect and verify all information necessary to determine the eligibility status of each individual included in an active case selected in the sample as of the review month and whether Medicaid payments were for services which the individual was eligible to receive. In order to verify eligibility information, the agency must—

(1) Examine and analyze each case record for all cases under review to establish what information is available for use in determiniing eligibility in the review month;

(2) Conduct field investigations, including in-person recipient interviews for each case in the active case sample, and conduct in-person interviews with recipients for cases in the negative case

action sample (unless this is otherwise addressed in a superior system provided for in paragraph (c)(1) of this section) to the extent necessary to verify erroneous eligibility determinations;

(3) Verify all appropriate elements of eligibility for active cases through at least one primary source of evidence or two secondary sources of evidence as defined by HCFA by documentation or by collateral contacts as required, or both, and fully record the information on the appropriate forms;

(4) Determine the basis on which eligibility was established and the eligibility status of the active case and each case member;

(5) Collect copies of State paid claims or recipient profiles for services delivered during the review month and, if indicated, any months prior to the review month in the agency's selected spenddown period, for all members of the active case under review;

(6) Associate dollar values with eligibility status for each active case under review; and

(7) Complete the payment, case, and review information for all individuals in the active case under review on the appropriate forms.

§ 431.814 Sampling plan and procedures.

(a) *Plan approval.* The agency must submit a basic MEQC sampling plan (or revisions to a current plan) that meets the requirements of this section to the appropriate HCFA regional office for approval at least 60 days before the beginning of the review period in which it is to be implemented. If a plan is unchanged from a previous period, the agency is not required to resubmit the entire plan. Universe estimates and sampling intervals are required 2 weeks before the beginning of each period. The agency must receive approval for a plan before it can be implemented.

(b) *Plan requirements.* The agency must have an approved sampling plan in effect for the full 6-month sampling period that includes the following:

(1) The population to be sampled;

(2) The list(s) from which the sample is selected and the following characteristics of the list(s):

(i) Sources;

(ii) All types of cases in the selection lists;

(iii) Accuracy and completeness of sample lists in reference to the population(s) of interest;

(iv) Whether or not the selection list was constructed by combining more than one list;

(v) The form of the selection list (whether the list or part of the list is automated);

(vi) Frequency and length of delays in updating the selection lists or their sources;

(vii) Number of items on the lists and proportion of listed-in-error items;

(viii) Methods of deleting unwanted items from the selection lists; and

(ix) Structure of the selection lists.

(3) The sample size, including the minimum number of reviews to be completed and the expected number of cases to be selected. Minimum sample sizes are based on the State's relative level of Medicaid annual expenditures for services for active cases, and on the total number of negative case actions in the universe for negative cases. When the sample is substratified, there can be no fewer than 75 cases in each substratum, except as provided in paragraph (c) of this section or as provided in an exception documented in an approved sampling plan.

(4) The sample selection procedure. Systematic random sampling is recommended. Alternative procedures must provide a representative sample, conform to principles of probability sampling, and yield estimates with the same or better precision than achieved in systematic random sampling.

(5) Procedures used to identify amounts paid for services received in the review month.

(6) Specification as to whether the agency chooses to—

(i) Use billed amounts to offset recipient liability toward cost of care (No indication will be interpreted to mean that the agency will use paid claims); and

(ii) Also use denied claims to offset recipient liability toward cost of care in the payment review. (No indication will be interpreted to mean denied claims will not be used.)

(7) Indication of whether the agency opts to drop or complete cases selected more than once in a sample period. (No indication will be interpreted to mean that the agency will complete cases selected more than once.)

(c) *Eligibility universe—active cases.* The MEQC universe for active cases must be divided into two strata, the Aid to Families with Dependent Children (AFDC) stratum and the Medical Assistance Only (MAO) stratum.

(1) All States must use the AFDC quality control sample for the AFDC stratum.

(2) States must include in the MAO stratum all cases listed as eligible for Medicaid that are not in the AFDC stratum, including cases for which FFP is provided at 100 percent but excluding beneficiaries specified in paragraph (c)(4) of this section.

(3) States that require a separate Medicaid application for recipients of SSI and determine Medicaid eligibility using SSI criteria must divide the MAO stratum into two substrata: MAO cases and SSI cash cases. The SSI substratum sample size must be 75 cases or one-half of the total MAO sample, whichever is smaller. The non-SSI MAO substratum sample will be the remainder of the MAO stratum cases.

(4) States must exclude from the MEQC universe SSI beneficiaries whose eligibility determinations were made exclusively by the Social Security Administration under an agreement under section 1634 of the Act and individuals whose eligibility is determined under title IV–E of the Act.

(d) *Eligibility universe—negative cases.* Unless the agency has an approved superior system under § 431.812(c) that provides otherwise, the universe for negative Medicaid eligibility cases must consist of all denied applications, suspensions, and terminations occurring during the review month except AFDA-foster care cases, transfers between counties without any break in eligibility, and cases in which eligibility is exclusively determined by SSA under a section 1634 contract or determined under title IV–E of the Act.

(e) *Sampling procedures.* The agency must document all sampling procedures used by the State agency, including 98 percent accuracy of program identifier codes used in the sampling frame to separate listed-in-error cases from those in the population of interest, must make them available for review by HCFA, and must be able to demonstrate the integrity of its sampling procedures in accordance with this section.

(f) *Sampling periods.* The agency must use 6-month sampling periods, from April through September and from October through March.

(g) *Statistical samples.* The agency must select statistically valid samples of both active and negative case actions.

(h) *Sample selection lists.* The agency must submit to HCFA monthly a list of cases selected in the sample to be reviewed, after the State's sample selection and before commencing MEQC reviews on the cases in the sample.

(i) *Universe estimates and sampling intervals.* The agency must submit detailed universe estimates and sampling intervals to HCFA for approval at least 2 weeks before the first sample selection of the period. It must resubmit estimates and intervals for each sample period at least 2 weeks before the first sample if the estimates differ from the previous period. The sampling intervals must be used continuously throughout

the sampling period unless otherwise specified in an approved sampling plan. Final universe counts based on the actual sampling universe must be determined and reported to HCFA for each stratum/substratum designated in the sampling plan.

(j) *Sample size and methodology options.* The agency may select a sample size in accordance with the minimum established under paragraph (b)(3) of this section or use one of the methodologies specified in paragraph (j)(1) or (2) of this section. Regardless of the sample size or methodology chosen, the agency must provide as part of its sampling plan a statement that it will accept the reliability and precision of the selected sample size or methodology for purposes of disallowances of FFP.

(1) *Increase in size.* The agency may, at its option, increase its sample size for a sampling period above the federally prescribed minimum sample size provided for under paragraph (b)(3) of this section, and receive FFP for any increased administrative costs the agency incurs by exercising this option.

(2) *Retrospective sampling.* The agency may, at its option, implement retrospective sampling in which cases are stratified by dollar value of claims paid. If the agency selects retrospective sampling, it must—

(1) Draw an initial case sample size each month that is no less than 5 times the required sample size. The sample will be selected from the universe of cases that were certified eligible in the fourth month prior to the month of case selection;

(2) Identify claims paid for services furnished to all individuals during the review month (and, if indicated, any months prior to the review month in the agency's selected spenddown period) for these cases;

(3) Stratify the cases by dollar value of the claims into three or more strata;

(4) Select a second statistically valid sample within each group subject to the sample size requirements specified in paragraph (b)(3) or (j)(1) of this section.

§ 431.816 Case review completion deadlines and submittal of reports.

(a) The agency must complete case reviews and submit reports of findings to HCFA as specified in paragraph (b) of this section in the form and at the time specified by HCFA.

(b) In addition to the reporting requirements specified in § 431.814 relating to sampling, the agency must complete case reviews and submit reports of findings to HCFA in accordance with paragraphs (b)(1) through (6) of this section.

(1) *Active case eligibility reviews—MAO stratum.* (i) The agency must complete case eligibility reviews and report the findings for 90 percent of all active MAO cases within 75 days of the end of the review month for which those cases were reviewed and within 95 days of the end of the review month for which those cases were reviewed for 100 percent of all MAO active cases.

(ii) The agency must submit a monthly progress report on active case reviews completed during the month.

(iii) The agency must submit a report on cases selected for the review month.

(2) *Active case eligibility reviews—AFDC stratum.* (i) The agency must complete case eligibility reviews for AFDC ineligible and overpaid error cases caused by ineligible individuals and report the findings within 80 days of the end of the review month for which those cases were reviewed for 90 percent of the total reviews; within 100 days of the end of the review month for which those cases were reviewed for 95 percent of the total reviews; and within 125 days of the end of the review month for which those cases were reviewed for 100 percent of the total reviews.

(ii) The agency must report findings concurrently with the AFDC quality control findings for State agency-reported eligible individuals within the timeframes required by the AFDC program as specified in program regulations at 45 CFR 205.40(b)(2)(ii).

(3) *Negative case eligibility reviews.* The agency must submit a monthly progress report on negative case reviews completed during the month. If the agency has an approved superior system in effect, it must submit a report on its findings by June 30 of each year for the previous April-September sampling period and by December 31 for the October-March sampling period.

(4) *Payment reviews.* (i) The agency must submit a monthly progress report on payment reviews completed during the month.

(ii) The agency must complete payment review findings for 100 percent of the active case reviews in its sample and report the findings within 30 days after the first day of the month in which the claims collection process begins. The agency must wait 4 months after the end of each review month before associating the amount of claims paid for each case for services furnished during the review month unless retrospective sampling is elected.

(5) *Summary of reviews and findings.* The agency must submit summary reports of the findings for all cases in the 6-month sample by June 30 of each year for the previous April-September sampling period and by December 31 for the October-March sampling period. These summary reports must include findings changed in the Federal re-review process.

(6) *Other data and reports.* The agency must report other requested data and reports in a manner prescribed by HCFA.

§ 431.818 Access to records: MEQC program.

The agency, upon request, must mail to the HHS staff all records, including complete local agency eligibility case files or legible copies and all other documents pertaining to its MEQC reviews to which the State has access, including information available under Part 435, Subpart J, of this chapter, within 10 days of receipt of a request, unless the State has an alternate method of submitting these records that is approved by HCFA.

§ 431.820 Corrective action under the MEQC program.

The agency must—

(a) Take action to correct any active or negative case action errors found in the sample cases;

(b) Take administrative action to prevent or reduce the incidence of those errors; and

(c) By August 31 each year, submit to HCFA a report on its error rate analysis and a corrective action plan based on that analysis. The agency must submit revisions to the plan within 60 days of identification of additional error-prone areas, other significant changes in the error rate, or changes in planned corrective action.

§ 431.822 Resolution of differences in State and Federal case eligibility or payment findings.

(a) When a difference exists between State and Federal case eligibility or payment findings, the Regional Office will notify the agency by a difference letter.

(b) The agency must return the difference letter to the Regional Office within 28 calendar days of the date of the letter indicating either agreement with the Federal finding or reasons for disagreement and if the agency desires a conference to resolve the difference. If the agency fails to submit the difference letter indicating its agreement or disagreement with the Federal findings within the 28 calendar days, the Federal findings will be sustained.

(c) If the Regional Office disagrees with the agency's response, a difference conference will be scheduled within 20 days of the request of the agency. If a difference cannot be resolved, the

Regional Administrator has final authority for resolving the difference.

Medicaid Quality Control (MQC) Claims Processing Assessment System

§ 431.830 Basic elements of the Medicaid quality control (MQC) claims processing assessment system.

An agency must—

(a) Operate the MQC claims processing assessment system in accordance with the policies, sampling methodology, review procedures, reporting forms, requirements, and other instructions established by HCFA.

(b) Identify deficiencies in the claims processing operations.

(c) Measure cost of deficiencies;

(d) Provide data to determine appropriate corrective action;

(e) Provide an assessment of the State's claims processing or that of its fiscal agent;

(f) Provide for a claim-by-claim review where justifiable by data; and

(g) Produce an audit trail that can be reviewed by HCFA or an outside auditor.

§ 431.832 Reporting requirements for claims processing assessment systems.

(a) The agency must submit reports and data specified in paragraph (b) of this section to HCFA, in the form and at the time specified by HCFA.

(b) Except when HCFA authorizes less stringent reporting, States must submit:

(1) A monthly report on claims processing reviews sampled and on claims processing reviews completed during the month;

(2) A summary report on findings for all reviews in the 6-month sample to be submitted by the end of the 3rd month following the scheduled completion of reviews for that 6 month period; and

(3) Other data and reports as required by HCFA.

§ 431. 834 Access to records: claims processing assessment systems.

The agency, upon request, must provide HHS staff with access to all records pertaining to its MQC claims processing assessment system reviews to which the State has access, including information available under Part 435, Subpart J, of this chapter.

§ 431.836 Corrective action under the MQC claims processing assessment system.

The agency must—

(a) Take action correct those errors identified through the claims processing assessment system review and, if cost effective, to recover those funds erroneously spent;

(b) Take administrative action to prevent and reduce the incidence of those errors; and

(c) By August 31 of each year, submit to HCFA a report of its error analysis and a corrective action plan on the reviews conducted since the cut-off-date of the previous corrective action plan.

§ 431.861 [Amended]

In newly redesignated § 431.861; in paragraph (a)(1) the cross-reference to "§ 431.800 of this subpart" is changed to "§ 431.800 of this subpart in effect through September 1980"; in paragraph (a)(2), the cross-reference to "§ 431.802" is changed to "§ 431.862"; and in paragraph (b) the definition of "eligibility errors" is removed as duplicative of the definition in § 431.804.

§ 431.862 [Amended]

5. In newly redesignated § 431.862; in paragraph (a)(1) the cross-reference to "§ 431.800 of this subpart" is changed to "§ 431,800 of this subpart in effect from October 1, 1980 through September 30, 1982" in paragraph (a)(2), the cross-reference to "§ 431.803" is changed to "§ 431.863"; and in paragraph (b), the definition of "eligibility errors" is removed as duplicative of § 431.804.

§ 431.863 [Amended]

6. In newly redesignated § 431.863; in paragraph (a)(1) the cross-reference to "§ 431.800" is changed to "§ 431.800 in effect from April 1 through December 31, 1983"; in paragraph (a)(2), the cross-reference to "§ 431.804" is changed to "§ 431.864"; in paragraph (d)(3), the phrase "HCFA will reduce the State's estimate of its FFP requirements for FFP" is changed to "HCFA will reduce its estimate of the State's requirements for FFP"; in paragraph (e)(1), the words "and each annual assessment period thereafter" in the first sentence are removed; and in paragraph (e)(2)(v)(B), the cross-reference to "§ 431.800" is changed to read "§ 431.800 in effect between April 1 and December 31, 1983".

§ 431.864 [Amended]

7. Newly redesignated § 431.864 is amended by revising the section title, a cross-reference appearing after paragraph (d)(9) and before paragraph (e), revising paragraphs (a), (d)(4), (e)(1), and (e)(2)(v)(B) (paragraphs (e)(2) and (e)(2)(v) and republished), and redesignating paragraph (e)(4) as paragraph (f) and revising it to read as follows:

§ 431.864 Disallowance of Federal Financial participation for erroneous State payments (effective January 1, 1984 through September 30, 1987)

(a) *Purpose and Applicability*—(1) *Purpose.* This section establishes rules and procedures for disallowing Federal financing participation (FFP) in erroneous medical assistance payments due to eligibility" and beneficiary liability errors as detected through the Medicaid eligibility quality control (MEQC) program required under § 431.800 in effect between January 3, 1984 and September 30, 1987.

(2) *Applicability.* This section will apply to all States except Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, and American Samoa between January 1, 1984 and September 30, 1987. Beginning October 1, 1987, those States must follow the rules and procedures specified in § 431.865.

* * * * *

(d) *Computation of anticipated error rate.* * * *

(4) Based on the anticipated error rate established in paragraph (d)(1) or (d)(2) of this section, HCFA will reduce its estimate of the State's requirements for FFP for medical assistance for the quarter by the percentage by which the anticipated payment error rate exceeds the 3-percent national standard. This reduction will be applied against the State's total estimate of FFP for medical assistance expenditures (less payments to Supplemental Security Income beneficiaries in 1634 contract States and payments to children eligible under title IV–E of the Act) prior to any other required reductions. The reduction will be noted on the State's grant award for the quarter and does not constitute a disallowance, and, therefore, is not appealable.

* * * * *

(9) * * *

(See § 431.863(d)(8) for an example of a disallowance computation)

(d) *Notice of States and showing of good faith.* (1) When the actual payment error rate data are finalized for each annual assessment period beginning during the period of October 1, 1983 through September 30, 1986. HCFA will establish each State's error rate and the amount of any potential disallowance. States that have error rates above the national standard will be notified by letter of their error rates and the amount of the potential disallowance.

* * * * *

(2) Some examples of circumstances under which the Administrator may find that a State did not meet the national

standard despite a good faith effort are—

* * * * *

(v) The State timely developed and implemented a corrective action plan which the Administrator finds to be reasonably designed to meet the target error rate, but the national standard was not achieved. In evaluating whether the State made a good faith effort in these circumstances, the Administrator will consider the following factors:

* * * * *

(B) The State must have operated an MQC eligibility program in accordance with the provisions of § 431.800 in effect between January 3, 1984 and September 30, 1987.

* * * * *

(f) *Disallowance subject to appeal.* (1) If a State does not agree with a disallowance imposed under paragraph (e) of this section, it may appeal to the Departmental Grants Appeals Board within 30 days from the date of the final disallowance notice from HCFA. The regular procedures for an appeal of a disallowance apply, including review by the Grants Appeals Board under 45 CFR Part 16.

(2) This appeal provision, as it applies to MEQC disallowances, is not applicable to the Administrator's decision on a State's waiver request provided for under paragraph (e) of this section.

8. A new § 431.865 is added to read as follows:

§ 431.865 Disallowance of Federal financial participation for erroneous State payments (effective October 1, 1987).

(a) *Purpose and applicability.*

(1) *Purpose.* This section establishes rules and procedures for disallowing Federal financial participation (FFP) in erroneous medical assistance payments due to eligibility and beneficiary liability errors, as detected through the Medicaid eligibility quality control (MEQC) program required under § 431.806 in effect on and after October 1, 1987.

(2) *Applicability.* This section applies to all States except Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, and American Samoa beginning October 1, 1987.

(b) *Definitions.* For purposes of this section —

"Administrator" means the Administrator, Health Care Financing Administration or his or her designee.

"Annual assessment period" means the 12-month period October 1 through September 30 and includes two 6-month sample periods (October-March and April-September).

"Beneficiary liability" means—

(1) The amount of excess income that must be offset with incurred medical expenses to gain eligibility; or

(2) The amount of payment a recipient must make toward the cost of services.

"Erroneous payments" means the Medicaid payment that was made for an individual or family under review who—

(1) Was ineligible for the review month or, if full month coverage is not provided; at the time services were received;

(2) Was ineligible to receive a service provided during the review month; or

(3) Had not properly met beneficiary liability prior to receiving Medicaid services.

"National mean error rate" means the payment weighted average of the eligibility payment error rates for all States.

"National standard" means a 3-percent eligibility payment error rate.

"State payment error rate" means the ratio of erroneous payments for medical assistance to total expenditures for medical assistance (less payments to Supplemental Security Income beneficiaries in section 1634 contract States and payments for children eligible under title IV–E of the Act) for cases under review under the MEQC system for each assessment period.

"Technical error" means errors in eligibility condition that, if corrected, would not result in a difference in the amount of medical assistance paid. These errors include, but are not limited to, work incentive program requirements, the requirement for a separate Medicaid application, monthly reporting requirements, and failure to apply for benefits for which the family or individual is not eligible. Errors other than those listed are subject to approval by HCFA and issuance of HCFA instructions before they are classified as technical errors.

(c) *Setting of State's payment error rate.* (1) Each State must, for each annual assessment period, have a payment error rate no greater than 3 percent or be subject to a disallowance in FFP.

(2) A payment error rate for each State is determined by HCFA for each annual assessment period by computing the statistical estimate of the ratio of erroneous payments for medical assistance made on behalf of individuals or cases in the sample for services received during the review month to total expenditures for medical assistance for that State made on behalf of individuals or cases in the sample for services received during the review month. This ratio incorporates the findings of a federally re-reviewed subsample of the State's review findings and is projected to the universe of total medical assistance payments for calculating the amount of disallowance under paragraph (d)(5) of this section.

(3) The State's payment error rate does not include payments made on behalf of individuals whose eligibility determinations were made exclusively by the Social Security Administration under an agreement under section 1634 of the Act or children found eligible under title IV–E of the Act.

(4) The amount of erroneous payments is determined as follows:

(i) For ineligible cases resulting from excess resources, the amount of error is the lesser of—

(A) The amount of the payment made on behalf of the family or individual for the review month; or

(B) The difference between the actual amount of countable resources of the family or individual for the review month and the State's applicable resources standard.

(ii) For ineligible cases resulting from other than excess resources, the amount of error is the total amount of medical assistance payments made for the individual or family under review for the review month.

(iii) For erroneous payments resulting from failure to properly meet beneficiary liability, the amount of error is the lesser of—

(A) The amount of payments made on behalf of the family or individual for the review month; or

(B) The difference between the correct amount of beneficiary liability and the amount of beneficiary liability met by the individual or family for the review month.

(iv) The amount of payments made for services provided during the review month for which the individual or family was not eligible.

(5) In determining the amount of erroneous payments, errors caused by technical errors are not included.

(6) If a State fails to cooperate in completing a valid MEQC sample or individual reviews in a timely and appropriate fashion as required, HCFA will establish the State's payment error rate based on either—

(i) A special sample or audit;

(ii) The Federal subsample; or

(iii) Other arrangements as the Administrator may prescribe.

(7) When it is necessary for HCFA to exercise the authority in paragraph (c)(6) of this section, the amount that would otherwise be payable to the State under title XIX of the Act is reduced by the full costs incurred by HCFA in making these determinations. HCFA

may make these determinations either directly or under contractual or other arrangements.

(d) *Computation of anticipated error rate.* (1) Before the beginning of each quarter, HCFA will project the anticipated medical assistance payment error rate for each State for that quarter. The anticipated error rate is the lower of the weighted average error rate of the two most recent 6-month review periods or the error rate of the most recent 6-month review period. In either case, cases in the review periods must have been completed by the State and HCFA. If a State fails to provide HCFA with information needed to project anticipated excess erroneous expenditures, HCFA will assign the State an error rate as prescribed in paragraph (c)(6) of this section.

(2) Based on the anticipated error rate established in paragraph (d)(1) of this section, HCFA reduces its estimate of the State's requirements for FFP for medical assistance for the quarter by the percentage by which the anticipated payment error rate exceeds the 3-percent national standard. This reduction is applied against HCFA's total estimate of FFP for medical assistance expenditures (less payments to Supplemental Security Income beneficiaries in 1634 contract States and payments to children found eligible under title IV-E of the Act) prior to any other required reductions. The reduction is noted on the State's grant award for the quarter and does not constitute a disallowance, and, therefore, is not appealable.

(3) After the end of each quarter, an adjustment to the reduction will be made based on the State's actual expenditures.

(4) After the actual payment error rate has been established for each annual assessment period, HCFA will compute the actual amount of the disallowance and adjust the FFP payable to each State based on the difference between the amounts previously withheld for each of the quarters during the appropriate assessment period and the amount that should have been withheld based on the State's actual final error rate. If HCFA determines that the amount withheld for the period exceeds the amount of the actual disallowance, the excess amount withheld will be returned to the States through the normal grant awards process within 30 days of the date the actual disallowance is calculated.

(5) HCFA will compute the amount to be withheld or disallowed as follows:

(i) Subtract the 3-percent national standard from the State's anticipated or actual payment error rate percentage.

(ii) If the difference is greater than zero, the Federal medical assistance funds for the period, excluding payments for those individuals whose eligibility for Medicaid was determined exclusively by the Social Security Administration under a section 1634 agreement and children found eligible under title IV-E of the Act, are multiplied by that percentage. This product is the amount of the disallowance or withholding.

(6) A State's payment error rate for an annual assessment period is the weighted average of the payment error rates in the two 6-month review periods comprising the annual assessment period.

(7) The weights are established as the percent of the total annual payments that occur in each of the 6-month periods.

(See § 431.863(d)(8) for an example of a disallowance computation)

(e) *Notice to States and showing of good faith.* (1) When the actual payment error rate data are finalized for each annual assessment period beginning October 1, 1986, HCFA will establish each State's error rate and the amount of any disallowance. States that have error rates above the national standard will be notified by letter of their error rates and the amount of the disallowance.

(i) The State has 30 days from the date of receipt of this notification to show that this disallowance should not be made because it failed to meet the national standard despite a good faith effort to do so.

(ii) If HCFA is satisfied that the State did not meet the national standard despite a good faith effort, HCFA may reduce the funds being disallowed in whole or in part as it finds appropriate under the circumstances shown by the State.

(iii) A finding that a State did not meet the national standard despite a good faith effort will be limited to extraordinary circumstances.

(iv) The burden of establishing that a good faith effort was made rests entirely with the State.

(2) Some examples of circumstances under which HCFA may find that a State did not meet the national standard despite a good faith effort are—

(i) Disasters such as fire, flood, or civil disorders that—

(A) Require the diversion of significant personnel normally assigned to Medicaid eligibility administration; or

(B) Destroyed or delayed access to significant records needed to make or maintain accurate eligibility determinations;

(ii) Strikes of State staff or other government or private personnel necessary to the determination of eligibility or processing of case changes.

(iii) Sudden and unanticipated workload changes that result from changes in Federal Law and regulation, or rapid, unpredictable caseload growth in excess of, for example, 15 percent for a 6-month period;

(iv) State actions resulting from incorrect written policy interpretations to the State by a Federal official reasonably assumed to be in a position to provide that interpretation; and

(v) The State has taken the action it believed was needed to meet the national standard, but the national standard was not met. HCFA will consider request for a waiver under this criterion only if a State has achieved an error rate for the sample period that (after reducing the error rate by taking into account the cases determined by HCFA to be in error as a result of conditions listed in paragraphs (e)(2)(i) through (iv) of this section) is less than its error rate for the preceding sample year and does not exceed the national mean error rate for the sample period under review (unless that national mean error rate is at or below the 3-percent national standard). If the agency has met this error reduction requirement, HCFA will evaluate a request for a good faith waiver based on the following factors:

(A) The State has fully met the performance standards in the operation of a quality control system in accordance with Federal regulations and HCFA guidelines (e.g., adherence to Federal case completion timeliness requirements and verification standards).

(B) The State has achieved substantial performance in the formulation of error reduction initiatives based on the following processes:

(*1*) Performance of an accurate and thorough statistical and program analysis for error reduction which utilized quality control and other data;

(*2*) The translation of such analysis into specific and appropriate error reduction practices for major error elements; and

(*3*) The use of monitoring systems to verify that the error reduction initiatives were implemented at the local office level.

(C) The State has achieved substantial performance in the operation of the following systems supported by evidence of the timely utilization of their outputs in the determination of case eligibility:

(1) The operation of the Income and Eligibility Verification System in accordance with the requirements of Parts 431 and 435 of this chapter; and

(2) The operation of systems that interface with Social Security (e.g., BENDEX) data and, where State laws do not restrict agency access, records from agencies responsible for motor vehicles, vital statistics, and State or local income and property taxes (where these taxes exist).

(D) The State has achieved substantial performance in the use of the following accountability mechanisms to ensure that agency staff adhere to error reduction initiatives. The following are minimum requirements:

(1) Accuracy of eligibility and liability determinations and timely processing of case actions are used as quantitative measures of employee performance and reflected in performance standards and appraisal forms;

(2) Selective second-party case reviews are conducted. The second-party review results are periodically reported to higher level management, as well as supervisors and workers and are used in performance standands and appraisal forms; and

(3) Regular operational reviews of local offices are performed by the State to evaluate the offices' effectiveness in meeting error reduction goals with periodic monitoring to ensure that review recommendations have been implemented.

(vi) A State that meets the performance standards specified in paragraphs (e)(2)(v)(A) through (D) of this section will be considered for a full or partial waiver of its disallowance amount. The State must submit only specific documentation that verifies that the necessary actions were accomplished. For example, a State could submit worker performance standards reflecting timeliness and case accuracy as quantitative measures of performance.

(3) The failure of a State to act upon necessary legislative changes or to obtain budget authorization for needed resources is not a basis for finding that a State failed to meet the national standard despite a good faith effort.

(f) *Disallowance subject to appeal.* (1) If a State does not agree with a disallowance imposed under paragraph (e) of this section, it may appeal to the Departmental Grants Appeals Board within 30 days from the date of the final disallowance notice from HCFA. The regular procedures for an appeal of a disallowance will apply, including review by the Grant Appeals Board under 45 CFR Part 16.

(2) This appeal provision, as it applies to MEQC disallowances, is not applicable to the Administrator's decision on a State's waiver request provided for under paragraph (e) of this section.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: October 30, 1986.

William L. Roger,

Administrator, Health Care Financing Administration.

Approved: December 19, 1986.

Otis R. Bowen,

Secretary.

[FR Doc. 87-1456 Filed 1-23-87; 8:45 am]

BILLING CODE 4120-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 16

Review of Information Concerning Mitten Crabs

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Request for information.

SUMMARY: The Service is reviewing available biologic and economic information on freshwater crabs of the genus *Eriocheir* for possible addition to the list of injurious wildlife under the Lacey Act. Their importation and introduction into the natural ecosystem of the United States may pose a threat to agriculture, the health and welfare of human beings, and the welfare and survival of native wildlife species. Listing *Eriocheir spp.* as injurious would prohibit live crabs and viable eggs from importation into, or transportation between, the Continental United States, the District of Colunbia, Hawaii, the Commonwealth of Puerto Rico, or any territory or possession of the United States with limited exceptions. This notice seeks comments from the public to aid in determining if a proposed rule is warranted.

DATE: Comments must be submitted on or before March 12, 1987.

ADDRESS: Comments may be mailed to Chief, Division of Fish and Wildlife Management Assistance, U.S. Fish and Wildlife Service, 1717 H Street, NW., Room 514, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Lynn B. Starnes, Division of Fish and Wildlife Management Assistance, 202-632-2202.

SUPPLEMENTARY INFORMATION: The principal author of this notice is Jeffrey L. Horwath of the Division of Fish and Wildlife Management Assistance.

In a September 16, 1986, letter to the U.S. Fish and Wildlife Service (Service), the California Department of Fish and Game expressed their concerns that freshwater crabs of the genus *Eriocheir* posed a threat to agriculture, human health and safety, and certain native wildlife resources. They requested that the Service take the necessary steps to prohibit importation of these crabs into the United States.

The genus *Eriocheir* belongs to the family Grapsidae. One species commonly referred to as the "mitten" or "wool" crab (*Eriocheir sinensis*) is native to mainland China where it is commercially harvested from November to February. They are known to have been imported legally into California and sold at $10 to $15 per pound as a live food item at small Asian-American food markets in the San Francisco Bay and Los Angeles areas.

E. sinensis has become established in Europe and reportedly now occurs in Great Britain, France, Germany, Finland, Sweden, Denmark, Belgium and the Netherlands, where its burrowing habits have resulted in major damage to levees and river banks; it is feared that this tunneling behavior would seriously threaten agricultural interest in the United States by weakening, and eventually destroying, levee systems and earth fill irrigation canals. *Eriocheir spp.* is an intermediate host of Oriental lung fluke (*Paragonimus westermani*); humans and other warm blooded vertebrates are the final hosts of this parasite that is said to cause serious health problems in parts of the Orient. It has also been suggested that these crabs could prove harmful to native fauna not only be preying on smaller crustaceans, mollusks, hatching birds and turtles, but also by introducing and transmitting non-indigenous parasites and diseases to native crustaceans. They are reportedly known to cross land at night or during storms, allowing them to rapidly colonize new areas. Adults live in freshwater, but migrate into estuaries to breed.

The Lacey Act (18 U.S.C. 42) and implementing regulations contained in 50 CFR Part 16 restrict the importation into or the transportation of live wildlife or eggs thereof between the continental United States, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, or any territory or possession of the United States of any non-indigenous species of wildlife determined to be injurious or potentially injurious to certain interests including those of agriculture, the health and welfare of

human beings, and the welfare and survival of wildlife or wildlife resources of the United States. However, injurious wildlife may be imported under permit for zoological, educationa, medical or scientific purposes, or without permit by Federal agencies solely for their own use. If the process initiated by this Notice results in the addition of *Eriocheir spp.* to the list of injurious wildlife contained in 50 CFR Part 16, their importation into the United States would be prohibited except under the conditions, and for the purposes, described above.

This Notice solicits biologic, economic, or other information concerning *Eriocheir spp.* The information will be used to determine if they are a threat, or potential threat, to those interests of the United States delineated above, and thus warrant addition to the list of injurious wildlife. The information will also assist in preparing impact analyses and examining alternative protective measures under Exceutive Order 12291 and the Regulatory Flexibility Act (5 U.S.C. 601).

List of Subjects in 50 CFR Part 16

Animal diseases, Fish, Freight, Imports, Transportation, Wildlife.

This Notice is issued under the authority of the Lacey Act (18 U.S.C. 42).

Dated: January 13, 1987.

P. Daniel Smith,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87–1655 Filed 1–23–87; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 52, No. 16
Monday, January 26, 1987

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

General Conference Committee of the National Poultry Improvement Plan; Notice of Renewal

Notice is hereby given that the Secretary of Agriculture has renewed the General Conference Committee of the National Poultry Improvement Plan (NPIP) as an Advisoy Committee of the Department of Agriculture. This Committee serves as a forum for the study of problems relating to poultry health and, as the need arises, makes specific recommendations to the Secretary of Agriculture concerning ways in which the Department of Agriculture may assist the industry in solving these problems. In addition, the Committee advises the Department with respect to administrative procedures and interpretations of the NPIP provisions contained in 9 CFR Parts 145 and 147, and assists the Department in evaluating comments received from interested persons concerning proposed amendments to these provisions.

The seven industry members of the Committee are from various georgraphical regions of the United States and are elected by official State delegates to the NPIP Conference. All equal opportunity practices, in line with USDA policy, will be followed in the nominations and elections to the committee. These elected members are poultry geneticists, pathologists, veterinarians, hatcherymen, breeding flockowners, or State administrators of the NPIP. Since the Committee is balanced geographically and by profession within the poultry industry, the members are in a position to advise the Department on matters relating to this segment of the poultry industry.

The General Conference Committee is chaired by the Assistant Secretary for Marketing and Inspection Services or his designee. The Administrator of the Animal and Plant Health Inspection Service (APHIS) will serve as Vice Chairperson. A staff member, Program Planning Staff, Veterinary Services, APHIS, will be Executive Secretary. The Committee will report to the Secretary of Agriculture through the Administrator of APHIS and the Assistant Secretary for Marketing and Inspection Services.

The Secretary has determined that the renewal of this Committee is necessary and in the public interest.

The NPIP is administered under the authority of the Department of Agriculture Organic Act of 1944, as amended (7 U.S.C. 429).

Dated: January 20, 1987.

John J. Franke, Jr.,

Assistant Secretary for Administration.

[FR Doc. 87-1622 Filed 1-23-87; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF COMMERCE

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: June 1987 Fertility and Birth Expectation Supplement
Form Number: CPS-1
Type of Request: Reinstatement of a previously approved collection for which approval has expired
Burden: 57,000 respondents; 1,706 reporting hours
Needs and Uses: This survey will provide data on the number of females 18-44 years old who have had any children, and the number of females 18-39 years old who are expecting to have children in the future. These data are the only source for the governemnt's official annual count of the population and are used for projecting future population estimates.
Affected Public: Individuals or households.
Frequency: Annually
Respondent's Obligation: Voluntary
OMB Desk Officer: Don Arbuckle 395-7340

Agency: Bureau of the Census
Title: 1987 Census of Manufacturers, Distribution of Sales by Class of Customer
Form Number: MC-9601, MC-9602, MC-9603
Type of Request: New collection
Burden: 20,000 respondents; 70,500 reporting hours
Needs and Uses: This survey is the primary source of facts about the distribution of sales of manufactured products within the manufacturing, wholesale, retail, and government sectors of the economy.
Affected Public: Business or other for-profit institutions, small businesses or organizations
Frequency: Once every 10 years
Respondent's Obligation: Mandatory
OMB Desk Officer: Don Arbuckle 395-7340

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-4217, Department of Commerce, Room H6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collections should be sent to Don Arbuckle, OMB Desk Officer, Room 3228 New Executive Office Building, Washington, DC 20503.

Dated: January 20, 1987.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 87-1613 Filed 1-23-87; 8:45 am]

BILLING CODE 3510-07-M

International Trade Administration

The MCTL Implementation Technical Advisory Committee; Partially Closed Meeting

A meeting of the MCTL Implementation Technical Advisory Committee will be held February 12, 1987, 9:30 a.m., Herbert C. Hoover Building, Room 1092, 14th Street and Constitution Avenue, NW., Washington, DC. The Committee advises and assists the Office of Technology and Policy Analysis in the implementation of the Militarily Critical Technologies List (MCTL) into the Export Administration Regulations and provide for continuing review to update the Regulations as needed.

Agenda:

1. Opening remarks by Chairman.
2. Introduction of public attendees and invited guests.
3. Commerce report on status of regulations implementing TAC recommendations on reexport controls.

Executive Session:

4. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on December 30, 1986, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In The Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S Department of Commerce, Telephone: (202) 377–4217. For further information or copies of the minutes contact Margaret A. Cornejo 202–377–2583.

Dated: January 20, 1987.

Margaret A. Cornejo,

Director, Technical Support Staff, Office of Technology and Policy Analysis.

[FR Doc. 87–1614 Filed 1–23–87; 8:45 am]

BILLING CODE 3510–DT–M

[C–122–602]

Amendment to Termination of Countervailing Duty Investigation: Certain Softwood Lumber Products From Canada

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

EFFECTIVE DATE: January 26, 1987.

FOR FURTHER INFORMATION CONTACT: Gary Taverman, Office of Investigations or Richard Moreland, Office of Compliance, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 21230; telephone: 202/377–0161 or 202/377–2786.

Amendment: On December 30, 1986, we terminated the countervailing duty investigation on certain softwood lumber products from Canada (52 FR 315, January 5, 1987).

Subsequent to the publication of the termination notice, we discovered that a sentence was inadvertently omitted. Consequently, we are amending the "Withdrawal of Petition" section of our termination to include the following statement:

"The preliminary affirmative countervailing duty determination on certain softwood lumber products from Canada is henceforth without legal force and effect."

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 87–1682 Filed 1–23–87; 8:45 am]

BILLING CODE 3510–DS–M

Short Supply Review on Certain Semi-Finished Steel Billets; Request for Comments

January 20, 1987.

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice and request for comments.

SUMMARY: The Department of Commerce hereby announces its review of a request for a short supply determination under Article 8 of the U.S.-EC Arrangement Concerning Trade in Certain Steel Products, the U.S.-Brazil Arrangement Concerning Trade in Certain Steel Products, the U.S.-Spain Arrangement Concerning Trade in Certain Steel Products, the U.S.-Japan Arrangement Concerning Trade in Certain Steel Products, and the U.S.-Finland Arrangement Concerning Trade in Certain Steel Products, with respect to certain semi-finished steel billets.

DATE: Comments must be submitted no later than February 5, 1987.

ADDRESS: Send all comments to Nicholas C. Tolerico, Acting Director, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW., Washington, DC 20230, Room 3099.

FOR FURTHER INFORMATION CONTACT: Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW., Washington, DC 20230, Room 3099, (202) 377–0159.

SUPPLEMENTAL INFORMATION: Article 8 of the U.S.-EC, the U.S.-Brazil, the U.S.-Finland, and the U.S.-Spain Arrangements Concerning Trade in Certain Steel Products, and Paragraph 8 of the U.S.-Japan Arrangement Concerning Trade in Certain Steel Products provide that if the U.S. ". . . determines that because of abnormal supply or demand factors, the U.S. steel, industry will be unable to meet demand in the USA for a particular product (including substantial objective evidence such as allocation, extended delivery periods, or other relevant factors), an additional tonnage shall be allowed for such products. . . ."

We have received a short supply request for carbon and alloy cold heading quality semi-finished steel billets, and high carbon semi-finished steel billets. The requested billets are of a square cross section, measuring 4 inches on each side, and in lengths of 30–34 feet and 39–41 feet.

Any party interested in commenting on this request should send written comments as soon as possible, and no later than February 5, 1987. Comments should focus on the economic factors involved in granting or denying this request.

Commerce will maintain this request and all comments in a public file. Anyone submitting business proprietary information should clearly so label the business proprietary portion of the submission, and also provide a non-proprietary submission which can be placed in the public file. The public file will be maintained in the Central Records Unit, Import Administration, U.S. Department of Commerce, Room B–099 at the above address.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 87–1683 Filed 1–23–87; 8:45 am]

BILLING CODE 3510–DS–M

Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments; Stanford University et al.

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub.

L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 85–006R. Applicant: Stanford University, Palo Alto, CA 94304. Instrument: Tritium Meter, Model WTM 5000. Manufacturer: Hughes Whitlock Ltd., United Kingdom. Intended Use: See notice at 49 FR 47282. Reasons for This Decision: The foreign instrument provides a sensitivity of 10^{-4} microcuries/square cm. Advice Submitted by: National Institute of Health, January 2, 1986.

Docket Number: 86–327. Applicant: Department of the Interior, Menlo Park, CA 94025. Instrument: Mass Spectrometer, Model Series 216. Manufacturer: Mass Analyzer Products Limited, United Kingdom. Intended Use: See notice at 51 FR 37057. Reasons for This Decision: The foreign instrument provides (1) analysis of very small samples of argon gas (1.0×10^{-10} cubic centimeters STP), (2) very low outgassing of materials of construction and (3) high efficiency ion source and collector for argon. Advice Submitted by: National Bureau of Standards, November 20, 1986.

Docket Number: 86–330. Applicant: Texas Tech University, Lubbock, TX 79409–4109. Instrument: Mass Spectrometer, Model SIRA 12 with Accessories. Manufacturer: VG Isogas, United Kingdom. Intended Use: See notice at 51 FR 37057. Reasons for This Decision: The foreign instrument provides an internal precision of 0.015‰ for small (10 bar microliter) samples of CO_2 using cryogenic trapping into an auto-cold finger. Advice Submitted by: National Bureau of Standards, November 21, 1986.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as each is intended to be used, is being manufactured in the United States. The National Institutes of Health and National Bureau of Standards advise in the respectively cited memoranda that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 87–1684 Filed 1–23–87; 8:45 am]

BILLING CODE 3510-DS-M

Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments; University of California, et al.

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 86–207. Applicant: University of California, Santa Barbara, Santa Barbara, CA 93106. Instrument: Accessories and Attachment for Surface Forces Apparatus. Manufacturer: Anutech Pty Ltd., Australia. Intended Use: See notice at 51 FR 21012. Reasons for This Decision: The foreign instrument can measure force-distance relationships between solid surfaces with a force sensitivity of 10.0 nanonewtons and a distance resolution of about 0.1 nanometer.

Docket Number: 87–033. Applicant: University of Colorado, Boulder, CO 80309–0215. Instrument: FTI Spectrometer, Model IZM030 with Accessories. Manufacturer: Bomem, Inc., Canada. Intended Use: See notice at 51 FR 42890. Reasons for This Decision: The foreign instrument provides an unapodized resolution of $0.01cm^{-1}$ and a frequency range of $100cm^{-1}$ to $50{,}000cm^{-1}$.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as each is intended to be used, is being manufactured in the United States. The capability of each of the foreign instruments described above is pertinent to each applicant's intended purposes.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 87–1685 Filed 1–23–87; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Caribbean Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Caribbean Fishery Management Council's Administrative Subcommittee will convene a public meeting, February 5, 1987, from 9:30 a.m. to approximately 4 p.m., at the Council's office (address below), to discuss issues related to the Subcommittee's regular administrative operations.

For further information contract the Caribbean Fishery Management Council, Banco de Ponce Building, Suite 1108, Hato Rey, PR 00918; telephone: (809) 753–4926.

Dated: January 21, 1987.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 87–1702 Filed 1–23–87; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Pacific Fishery Management Council's Groundfish Management Team will convene a public meeting, February 10–12, 1987, at the Pacific Fishery Management Council's office, (address below). On February 10 the Team will convene at 11 a.m. to consider groundfish fishery management plan (FMP) amendment issues, including shoreside sorting of prohibited species in the midwater trawl whiting fishery; long-term sablefish management; modification of species covered in the FMP, and determination of the need for experimental fisheries. The sablefish stock projections for 1987 will be reviewed in light of new survey data. A report will be developed on these issues for the Council's March 10–13, 1987, meeting in Portland, OR. For further information contact Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, Metro Center, 2000 SW. First Avenue, Suite 420, Portland OR 97201; telephone: (503) 221–6352.

Dated: January 21, 1987.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 87–1703 Filed 1–23–87; 8:45 am]

BILLING CODE 3510-22-M

Marine Fisheries Advisory Committee; Partially Closed Meeting

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

Time and Date: The meeting will convene at 9:00 a.m., February 11, 1987, and adjourn at approximately 3:45 p.m., February 12, 1987.

Place: Stephen F. Austin Hotel, 701 Congress Avenue, Austin, Texas.

Status: As required by Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1982), notice is hereby given of a meeting of the Marine FIsheries Advisory Committee (MAFAC). Parts of this meeting will be open to the public. The remainder of the meeting will be closed to the public. MAFAC was established by the Secretary of Commerce on February 17, 1971, to advise the Secretary on all living marine resource matters which are the responsibility of the Department of Commerce. This Committee ensures that the living marine resource policies and programs of this Nation are adequate to meet the needs of commercial and recreational fishermen, environmental, state, consumer, academic, and other national interests.

Matters To Be Considered:

Portions Open to the Public: February 11, 1987, 9:00 a.m., Americanization of EEZ fisheries, current fisheries trade issues, interjurisdictional fisheries management, and marine fishing license. February 12, 1987, 8:30 a.m.–10:15 a.m., National Fish and Seafood Promotional Council and fisheries enforcement.

Portion Closed to the Public: February 12, 1987, 10:30 a.m.–3:45 p.m. (Executive Session), budget/program priorities.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration of the Department of Commerce, with concurrence of the General Counsel, formally determined on January 20, 1987, pursuant to section 10(d) of the Federal Advisory Committee Act, that the agenda item to be covered during the Executive Session may be exempt from the provisions of the Act relating to open meetings and public participation therein, because the item will be concerned with matters that are within the purview of 5 U.S.C. Section 552b(c)(9)(B) as information the premature disclosure of which will be likely to significantly frustrate the implementation of proposed agency action. (A copy of the determination is available for public inspection and duplication in the Central Reference and Records Inspection Facility, Room 6628, Department of Commerce.) All other portions of the meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT: Ann Smith, Executive Secretary, Marine Fisheries Advisory Committee, Office of Legislative Affairs, NOAA, Washington, DC 20235. Telephone: (202) 673–5429.

Dated: January 21, 1987

James E. Douglas, Jr.,

Deputy Assistant Administrator for Fisheries.

[FR Doc. 87–1659 Filed 1–23–87; 8:45 am]

BILLING CODE 3510–22–M

Mid-Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Mid-Atlantic Fishery Management Council will convene a public meeting, February 18–19, 1987, at the Tidewater Inn, Dover and Harrison Streets, Easton, MD (telephone: 301–822–1300), to discuss the Summer Flounder and Ocean Quahog Fishery Management Plans, as well as to discuss other fishery management and administrative matters. The public meeting may be lengthened or shortened depending upon progress on agenda items. The Council also may convene a closed session (not open to the public) to discuss personnel and/or national security matters. For further information, contact John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Federal Building, 300 South New Street, Room 2115, Dover, DE 19901; telephone: (302) 674–2331.

Dated: January 21, 1987.

Richard B. Roe,

Director, Office of Fisheries Management National Marine Fisheries Service.

[FR Doc. 87–1702 Filed 1–23–87; 8:45 am]

BILLING CODE 3510–22–M

DEPARTMENT OF COMMERCE

[P77#26]

Marine Mammals; Application for Permit; Southwest Fisheries Center

Notice is hereby given that an Applicant has applied in due form for Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531–1544), and the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217–222).

1. Applicant: Southwest Fisheries Center, National Marine Fisheries Service, P.O. Box 271, La Jolla, California 92038.

2. Type of Permit: Scientific Research.

3. Name and Number of Marine Mammals: 80 Hawaiian monk seals (*Monachus schauinslandi*).

4. Summary of Request: The Southwest Fisheries Center is requesting to attach depth recorders, radio transmitters and tags to up to eighty (80) Hawaiian monk seals to study their diving/foraging habits. The research will be conducted at French Frigate Shoals, Northwest Hawaiian Islands over a two year period.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 1825 Connecticut Avenue, NW., Washington, DC; and

Director, Southwest Region, National Mairne Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731–7415.

Dated: January 16, 1987.

Dr. Nancy Forster,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 87–1624 Filed 1–23–87; 8:45 am]

BILLING CODE 3510–22–M

[P311C]

Application for Marine Mammals Permit; the Whale Museum

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as

authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531–1544), and the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217–222).

1. Applicant: The Whale Museum, Moclips Cetological Society, P.O. Box 945, 62 First Street, Friday Harbor, Washington 98250.

2. Type of Permit: Scientific Research.

3. Name and Number of Marine Mammals:

Killer whale (*Orcinus orca*)—100.
Dall's porpoise (*Phocoenoides dallii*)—500.
Harbor porpoise (*Phocoena phocoena*)—300.
Minke whale (*Balaenoptera acutorostrata*)—75.
Gray whale (*Eschrictius rebustus*)—100.
Humpback whale (*Megaptera novaeangliae*)—50.

4. Type of Take: The animals will be photographed for identification purposes which may involve incidental harassment.

5. Location of Activity: Coastal Washington.

6. Period of Activity: 2 years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices:

Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, 1825 Connecticut Avenue, NW., Rm. 805, Washington, DC; and Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way, NE., BIN CI5700, Seattle, Washington 98115.

Dated: January 12, 1987.

Nancy Foster,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 87–1625 Filed 1–23–87; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Intent To Grant Exclusive Patent License

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Leonid Shturman, having a place of business at 11725 Montona Avenue, Los Angeles, CA 90049, an exclusive right in the United States to practice the invention embodied in U.S. Patent 4,403,385, "Jet Controlled Catheter." The patent rights in this invention will be assigned to the United States of America, as represented by the Secretary of Commerce.

The intended exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404. The intended license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the intended license would not serve the public interest.

Inquiries, comments and other materials relating to the intended license must be submitted within the above specified 60-day peroid and should be addressed to Robert P. Auber, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Patent Licensing Specialist, Office of Federal Patent Licensing, U.S. Department of Commerce, National Technical Information Service.

[FR Doc. 87–1594 Filed 1–23–87; 8:45 am]

BILLING CODE 3510-04-M

CONSUMER PRODUCT SAFETY COMMISSION

Interagency Committee on Cigarette and Little Cigar Fire Safety; Change in Location for Technical Study Group Meeting

AGENCY: Interagency Committee on Cigarette and Little Cigar Fire Safety.

ACTION: Notice of changed locations for meeting.

SUMMARY: The February 12 and 13, 1987 meeting of the Technical Study Group of Cigarette and Little Cigar Fire Safety will be at locations different from the one previously announced.

DATES: The meeting will be on February 12 and 13, 1987, from 9:30 a.m. to 5:00 p.m. each day.

ADDRESS: The meeting will be in Conference Room D, Building 101 on February 12 and in Conference Room A, Building 101 on February 13. Both locations are at the National Bureau of Standards, Quince Orchard and Clopper Roads, Gaithersburg, Maryland.

FOR FURTHER INFORMATION CONTACT: Terri Buggs, Office of Program Management and Budget, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 492–6554.

SUPPLEMENTARY INFORMATION: Aside from the changed locations for the meeting, all of the information provided in the January 16, 1987 **Federal Register** notice (52 FR 1954) is the same.

Dated: January 16, 1987.

Colin B. Church,

Federal Employee Designated by the Interagency Committee on Cigarette and Little Cigar Fire Safety.

[FR Doc. 87–1675 Filed 1–23–87; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Technology Services, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before February 25, 1987.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue, SW., Room 4074, Switzer Building, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Margart B. Webster (202) 426–7304.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal Agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Information Technology Services, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Agency form number (if any); (4) Frequency of collection; (5) The affected public; (6) Reporting burden; and/or (7) Recordkeeping burden; and (8) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: January 21, 1987.

Carlos U. Rice,

Acting Director, Information Technology Services.

Office of Special Education and Rehabilitative Services

Type of Review: New
Title: National Rehabilitation Personnel and Training Needs Assessment
Agency Form Number: B20–22P
Frequency: Once only
Affected Public: State or local governments; non-profit institutions; small businesses or organizations
Reporting Burden:
Responses: 630
Burden Hours: 630
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0

Abstract: This assessment survey will collect information from State rehabilitation agencies and from independent facilities providing services to State agency rehabilitation clients in order to establish training and personnel priorities as required by Pub. L. 98–221.

Office of Educational Research and Improvement

Title: 1987 National Postsecondary Student Aid Survey
Agency Form Number: G50–16P
Frequency: Triennial
Affected Public: Individuals and households; non-profit institutions; small businesses or organizations
Reporting Burden:
Responses: 92,000
Burden Hours: 63,500
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0

Abstract: This study will collect data from a sample of students in postsecondary institutions, their parents and their school financial aid records. The study will provide a student based information system for student financial aid and will assess the distribution and use of financial aid, as well as, the individual's ability to finance Postsecondary education.

Office of Educational Research and Improvement

Type of Review: New
Title: Application for Grants under Library Research and Demonstration Program, Title II–B of the higher Education Act, as amended.
Agency Form Number: ED 336
Frequency: Annually
Affected Public: State or local governments; non-profit institutions
Reporting Burden:
Responses: 50
Burden Hours: 2001
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0

Abstract: This application will be used by institutions of higher education and library organizations to apply for funds under Title II–B of the Higher Education Act, as amended. Funds are available for research and development activities to improve libraries and information technology and for training in librarianship.

Office of Educational Research and Improvement

Type of Review: Extension
Title: Application for Grants Under library Literacy Programs
Agency Form Number: G50–7P
Frequency: Annually
Affected Public: State or local governments
Reporting Burden:
Responses: 800
Burden Hours: 12,800
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0

Abstract: This application will be used by state and local public libraries to apply for funds under Title VI of the Library Services and Construction Act, as amended.

[FR Doc. 87–1706 Filed 1–23–87; 8:45 am]
BILLING CODE 4000–01–M

Office of Fossil Energy

Cooperative Research and Development Ventures Regional Meetings

AGENCY: Department of Energy.

ACTION: Notice of meetings.

SUMMARY: The Department of Energy's Office of Fossil Energy (DOE/FE) is announcing a series of regional meetings following up on the national meeting (which was held in Denver, Colorado, on December 3, 1986) to explore in more detail and with additional potential partners a number of issues on the subject of cooperative cost-shared research and development (R&D) ventures with the U.S. private sector, states and/or other interested participants.

The DOE/FE is particularly interested in learning which R&D technology areas are of most interest to potential private sector participants; what operating and procedural characteristics interested parties would like to see in cooperative R&D ventures, including what relaxations in federal operating procedures affecting reporting, oversight, and management would make these ventures more attractive to potential project participants; and the types of R&D activity viewed as most amenable to the use of this approach. These and other related issues are to be explored in the meetings both through plenary sessions and interactive small group working sessions.

The DOE/FE is soliciting views on the design of cooperative R&D ventures. The DOE/FE intends to summarize and present information developed in these meetings to Congress; hence findings developed from these meetings have the potential to impact future DOE/FE R&D budget requests and program planning. The public is, therefore, invited to participate in and to present their views and comments orally at one or more of the meetings.

Each regional meeting is planned to consist of (1) a plenary session at which DOE will summarize the status of its planning for cooperative R&D ventures, (2) small working group sessions for interactive discussion of private sector viewpoints regarding specific issues involved in proceeding with such ventures, and (3) a closing plenary session at which working group

chairmen will report the result of their individual sessions. The topic areas for individual working group discussions are still under review; however, possible topic areas include one or more of the following:

- Fossil energy technology areas most suitable for application of the venture concept, and of maximum interest to the private sector;
- Types of R&D activity most suitable for application of the venture concept, and of maximum interest to the private sector;
- Appropriate groundrules for financial participation and recoupment of participants' investment;
- Anti-trust considerations, patents and proprietary rights;
- Potential roles for universities;
- Considerations associated with foreign participation;
- Appropriate evaluation criteria for proposals; and
- Means and schedule for further development of concept.

Potential participants unable to attend one of the meetings may also communicate their views in writing at the address given below. Such communications may suggest additional arrangements, tailored to address DOE/FE R&D needs. These needs, as perceived by DOE/FE, are described both in the SUPPLEMENTARY INFORMATION section and in additional information available from DOE, upon written request.

DATES: Written comments should be submitted no later than February 13, 1987. The first of these public meetings will be held at 9:00 a.m. on February 18, 1987, in San Francisco, California. (Expressions of interest in attending the regional public meetings, obtaining the additional information for comment, participating in discussion, and/or making a statement at the meetings should also be submitted to DOE/FE at the address given below, on or before February 13, 1987).

ADDRESSES: For submission of comments: Cooperative R&D Ventures, David S. Jewett, Director, Business Operations and External Affairs, Office of Management, Fundamental Research and Cooperative Development, FE–10, A–117, Office of Fossil Energy, U.S. Department of Energy Washington, DC 20545 (301) 353–2618, Telex No. (301) 353–5465.

The first regional public meeting will be held: February 18, 1987, Westin St. Francis Hotel, 335 Powell Street, San Francisco, California 94102, (415) 397–7000.

Subsequent regional meetings are planned to be held in Charleston, West Virginia, and Chicago, Illinois, in early spring.

Dates and locations for these latter two meetings will be announced in a later notice.

FOR FURTHER INFORMATION CONTACT: Cooperative R&D Ventures, David S. Jewett, Director, Business Operations and External Affairs Office of Management, Fundamental Research and Cooperative Development, FE–10, A–117, Office of Fossil Energy, U.S. Department of Energy, Washington, DC 20545, (301) 353–2618, Telex No. (301) 353–5465.

SUPPLEMENTARY INFORMATION: In the face of heightened international competition, U.S. firms are increasing the leveraging of their resources in technology development through the use of cooperative R&D ventures. The pooling of knowledge and resources, inherent in this approach, enables a broader base of technology and funds to be targeted to industry-wide problems. The likelihood of success in these ventures is enhanced by the private sector's ability to discover jointly and exploit the full commercial value of basic and applied research, including the fundamental research and technology development to translate basic concepts into potential market opportunities..

The DOE/FE is exploring the use of related concepts for cooperative fossil energy R&D ventures. The DOE/FE is interested in advances in all areas of technology and approaches that could be effectively applied to the expanded use of the vast variety of U.S. domestic fossil resources including, specifically, coal, oil, gas and shale. The cooperative arrangements to be explored may combine government funding, technical talent, and laboratory resources with private resources (including those of the states) in a manner that may alleviate some of the risks of energy-related entrepreneurship, while leaving technical and commercial leadership in the hands of the private sector. This federal-private sector partnership may simultaneously enhance the use of domestic resources and domestic scientific and technical talent, leading to an increased number of U.S. jobs, as well as increased availability of domestic resources for U.S. energy strength and needs.

The DOE/FE intends to be open and flexible in its approach to each potential venture, particularly as to issues concerning the extent of future government support, patent rights, and contracting and reporting requirements. Private sector comment regarding desirable flexibilities is being sought under this notice. Should existing authorities require modification to increase responsiveness to such comments, DOE is prepared to consider both the appropriateness and the potential costs and benefits of seeking such modification. Additional information which develops and explores joint venture concepts in greater detail has been prepared by DOE/FE and is available, upon written request, at the address given in the **"FOR FURTHER INFORMATION CONTACT"** section, above.

Issued at Washington, DC, on January 8, 1987

J. Allen Wampler,

Assistant Secretary, Fossil Energy.

[FR Doc. 87–1666 Filed 1–23–87; 8:45 am]

BILLING CODE 6450–01–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Proposed Consent Order; Pennzoil Co.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of proposed consent order and opportunity for public comment.

SUMMARY: The Economic Regulatory Administration (ERA) announces a proposed Consent Order between the Department of Energy (DOE) and Pennzoil Company (Pennzoil). The agreement proposes to resolve matters relating to Pennzoil's compliance with the entitlements program of the petroleum price and allocation regulations regarding Pennzoil's transactions with small refiners during the period of July 1976 through December 1977. If this Consent Order is approved, Pennzoil will pay a total of $1,335,000.00, plus such interest as accrued since December 10, 1986.

Pursuant to 10 CFR 205.199J, ERA will receive written comments on the proposed Consent Order for thirty (30) days following publication of this Notice. ERA will consider the submissions received from the public in determining whether to reject the settlement, accept the settlement and issue a final Order, or renegotiate the agreement and, if successful, issue a modified agreement as a final Order. DOE's final decision will be published in the **Federal Register**, along with an analysis of and response to the significant written and oral comments, as well as any other considerations that were relevant to the decision.

FOR FURTHER INFORMATION CONTACT: Joseph L. Gibson, Office of the Solicitor, Economic Regulatory Administration, Department of Energy, 1000 Independence Avenue, SW. Washington, DC 20585 (202) 586–8321.

SUPPLEMENTARY INFORMATION: Pennzoil is a small petroleum refiner subject to the audit jurisdiction of ERA to determine compliance with the federal petroleum price and allocation regulations. During the period covered by this proposed Consent Order (July 1, 1976, through December 31, 1977), Pennzoil engaged in the refining of crude oil into motor gasoline and other refined petroleum products.

The subject matter of the Proposed Consent Order was specially excluded from the Consent Order of Janaury 18, 1981, between DOE and Pennzoil in case number RPNA0001. The 1981 Consent Order at ¶ 101, "resolv[ed] all civil and administrative disputes, claims and causes of action by DOE . . . relating to Pennzoil's compliance with the federal petroleum price and allocation regulations . . . during the period of March 6, 1973, through December 1980" except for matters specifically excluded. The 1981 Consent Order at ¶ 501, exception (2), specifically excluded "Pennzoil's compliance with the entitlements regulations with respect to certain transactions occuring during the period July 1976 through December 1977 between Pennzoil and certain small refiners . . . ."

DOE audited those transactions involving Pennzoil's subsidiary, Atlas Processing Company (Atlas), regarding its compliance with the entitlements program, including Atlas's processing agreements with J&W Refining, Inc. (J&W), a small refiner exempt from entitlements obligations, by which Atlas refined crude oil owned by a non-refiner, P&O Falco (Falco), during the period of September 1976 through May 1977. On July 29, 1986, ERA issued to Pennzoil a Proposed Remedial Order in Case No. NPNG00301 alleging that Pennzoil failed to pay the entitlements obligations on the crude oil processed in accordance with the Atlas-J&W-Falco processing agreements. On December 8, 1986, ERA moved before the Office of Hearings and Appeals to withdraw the Proposed Remedial Order without prejudice to ERA's right to file this or another Proposed Remedial Order if the proposed settlement were not adopted as a final Order. On January 8, 1987, the Office of Hearings and Appeals granted ERA's motion for dismissal of the Proposed Remedial Order without prejudice.

In the negotiation process which led to this proposed settlement, ERA calculated the potential maximum recovery for the entitlements issues resolved by this proposed Consent Order. The Proposed Remedial Order regarding the Atlas-J&W-Falco processing agreements alleged that Pennzoil failed to pay entitlements obligations totaling approximately $9 million, plus approximately $15.6 million for interest which could be assessed on the violation amount, or a total of approximately $24.6 million ERA's audit of Pennzoil did not produce evidence warranting enforcement actions against Pennzoil concerning processing agreements with other small refiners. ERA also analyzed the complex nature of the alleged entitlements violation and several defenses which Pennzoil could raise in an administrative action.

The proposed settlement requires Pennzoil to pay $1,335,000.00 (plus interest from December 10, 1986, the date of the execution of the Consent Order) to resolve the above-described entitlements issues during the period of July 1, 1976, through December 31, 1977, including the issues and possible liability alleged in the Previous Proposed Remedial Order.

In determining a reasonable settlement amount, ERA assessed its audit and prelitigation documents, the previously issued Proposed Remedial Order and the defenses raised by Pennzoil, Pennzoil's limited benefit from these transactions, and the unique facts and circumstances which complicate these issues and increase the government's cost to litigate and the time period required to litigate fully every issue in order to obtain any recovery. Further, the proposed settlement resolves only one of the three exceptions to the 1981 Consent Order between DOE and Pennzoil. Based on all of these considerations, ERA concludes that the resolution of these limited matters for $1,335,000.00 is an appropriate settlement and is in the public interest.

III. Terms and Conditions of the Consent Order

Within thirty (30) days of the effective date of the Consent Order, Pennzoil will pay to DOE the principal amount of $1,335,000.00, plus interest accrued since December 10, 1986, the date that the proposed Consent Order was executed by the parties.

By the proposed Consent Order, Pennzoil and DOE mutually release each other from the claims and actions which are covered by this proposed Consent Order: only the subject matter of the second exception to the 1981 Consent Order between DOE and Pennzoil. The proposed Consent Order does not affect any other claims or actions by the parties. The proposed Consent Order does not affect the right of any other party to take action against Pennzoil or of Pennzoil or the DOE to take action against any other party. Finally, the proposed Consent Order only resolves certain civil liabilities and makes no attempt to resolve any criminal liability that might be established by the government against Pennzoil.

Submission of Written Comments

The proposed Consent Order cannot be made effective until the conclusion of the public review process, of which this Notice is part.

Interested parties are invited to submit written comments concerning this proposed Consent Order to: Pennzoil Consent Order Comments, RG–30, Economic Regulatory Administration, 1000 Independence Avenue, SW. Washington, DC 20585. ERA will consider all comments received on or before the thirtieth day following publication of this Notice in the **Federal Register**, before determining whether to adopt the proposed Consent Order as a final Order. Any modification of the proposed Consent Order which significantly alters its terms or impact will be published for additional public comment. If after considering the comments it has received, ERA determines to issue the proposed Consent Order as a final Order, the proposed Order will be made final and effective by publication of a Notice in the **Federal Register.**

Any information or data considered confidential by the person submitting it must be identified as such in accordance with the provisions of 10 CFR 205.9(f).

Issued in Washington, DC, on January 6, 1987.

Marshall A. Staunton,

Administrator, Economic Regulatory Administration.

Consent order with Pennzoil Co.; Case No. NPNC00301.

I. Introduction

101. This Consent Order is entered into between Pennzoil Company ("Pennzoil") and the United States Department of Energy ("DOE") for the sole purpose of settling and finally resolving all civil and adminsitrative disputes, claims and causes of action by DOE, whether or not heretofore asserted against Pennzoil, as defined herein, relating to Pennzoil's compliance with the entitlements programs of the federal petroleum price and allocation regulations, as defined herein, with

respect to certain transactions during the period of July 1976 through December 1977 between Pennzoil and certain small refiners (hereinafter "the subject matter of this Consent Order") including the issues raised in the Proposed Remedial Order in case number NPNG00301 issued on July 29, 1986, to Pennzoil ("said Proposed Remedial Order").

II. Jurisdiction and Regulatory Authority

201. This Consent Order is entered into by the DOE pursuant to the authority conferred upon it by sections 301 and 503 of the Department of Energy Organization Act ("DOE Act"), 42 U.S.C. 7151 and 7193; Executive Order No. 12009, 42 FR 46267 (1977); Executive Order No. 12038, 43 FR 4957 (1978); and 10 CFR 205.199J.

202. The Economic Regulatory Administration ("ERA") was created by section 206 of the DOE Act, 42 U.S.C. 7136. In delegation No. 0204–4, the Secretary of Energy delegated responsibility for the administration of the federal petroleum price and allocation regulations to the Administrator of the ERA, including the authority to enter into consent orders on behalf of the DOE.

203. As used in this Consent Order, the following phrases have the following meaning:

(1) "federal price petroleum price and allocation regulations" means all statutory requirements and administrative regulations regarding the price an allocation of crude oil, residual fuel oil, natural gas liquids, natural gas liquids products, motor gasoline, middle distillates, and other refined petroleum products including the entitlements and mandatory oil import programs, administered by the Cost Living Council ("CLC"), the Federal Energy Office ("FEO"), the Federal Energy Administration ("FEA"), or the DOE. The federal petroleum price and allocation regulations include (without limitation all pricing and allocation requirements imposed by or under the Economic Stabilization Act of 1970, the Emergency Petroleum Allocation Act of 1973, the Federal Energy Administration Act of 1974, Presidential Proclamation 3279, and all applicable DOE regulations, codified in 6 CFR 150.351, *et seq.*, and 10 CFR, Parts 205, 210, 211, 212 and 213, rules, rulings, guidelines, interpretations, clarifications, manuals, decisions, orders, forms, subpoenas, and reporting and certification requirements regarding the federal petroleum price and allocation regulations. The provisions of 10 CFR 205.199J and the definitions under the federal petroleum price and allocation regulations shall apply to this Consent Order, except to the extent inconsistent herewith.

(2) "DOE" includes the Department of Energy, the Office of Special Counsel, CLC, FEO, FEA, ERA and all successor agencies of the Department of Energy.

(3) "Pennzoil" includes Pennzoil, Atlas Processing Company, and their subsidiaries and affilliates during the period of July 1976 through December 1977.

III. Facts

The stipulated facts upon which this Consent Order is based are as follows:

301. During the period of July 1976 through December 1977, Pennzoil was a small refiner as that term is defined in the Emergency Petroleum Allocation Act of 1973; was subject to the jurisdiction of the DOE; and engaged in refining crude oil and refined petroleum products.

302. On January 18, 1981, DOE and Pennzoil executed a Consent Order in case number RPNA0001, which except for specifically excluded matters, "resolv[ed] all civil and administrative disputes, claims and causes of action by DOE . . . relating to Pennzoil's compliance with the federal petroleum price and allocation regulations . . . during which the period of March 6, 1973, through December 31, 1980." Paragraph 101. Said Consent Order specifically excluded therefrom "Pennzoil's compliance with the entitlements regulations with respect to certain transactions occurring during the period July 1976 through December 1977 between Pennzoil and certain small refiners as a part of a general industry investigation by DOE." Paragraph 501 at exception (2).

303. DOE audited the compliance of Pennzoil's subsidiary, Atlas Processing Company, regarding the entitlements program and particularly certain processing agreements by Atlas Processing Company with J&W Refining, Inc. On July 29, 1986 ERA issued to Pennzoil said Proposed Remedial Order in Case No. NPNG00301 regarding said processing agreements. On December 8, 1986, ERA moved to withdraw without prejudice said Proposed Remedial Order.

304. Pennzoil has contended that it correctly construed and applied the applicable entitlements regulations and also that DOE is foreclosed from issuing said Proposed Remedial Order, *inter alia*, by the 1981 Consent Order between Pennzoil and the DOE. Pennzoil undertakes to enter into this Consent Order in order to avoid the expense of protracted complex litigation and disruption of its business. The DOE believes this Consent Order provides a satisfactory resolution to the issues raised during the audit and that the Consent Order is in the public interest.

IV Remedial Provisions

401. In full and final settlement of the subject matter of this Consent Order and in lieu of all other remedies which have been or might be sought by the DOE against Pennzoil for such matters under 10 CFR 205.199I or otherwise, Pennzoil shall pay a total of one million three hundred thirty-five thousand dollars ($1,335,000.00), plus interest accruing at the rate specified in paragraph 403 between the date of execution by ERA of this Consent Order and the date of payment pursuant to paragraph 402.

402. Within thirty (30) days of the effective date of this Consent Order, Pennzoil shall pay to DOE one million three hundred thirty-five thousand dollars ($1,335,000.00), plus interest accrued for the period described in paragraph 401. Pennzoil shall make payment by wire transfer to the DOE, pursuant to the DOE's written instructions.

403. Interest shall be accrued from the date of execution of this Consent Order by Pennzoil at an initial interest rate equal to the annual coupon equivalent for the average price bid at the most recent auction of 13-week U.S. Treasury Bills preceding said date of execution. Thereafter, the interest rate shall be periodically adjusted to the level of the annual coupon equivalent for the average price bid at the auction of 13-week Treasury Bills next following the first day of each calendar quarter, beginning with the calendar quarter next following said date of execution. The adjusted interest rate will apply on the first day after said auction and will continue to apply until and including the day of the next such auction following the first day of the next calendar quarter or until payment, whichever is earlier. Interest shall be deemed earned each day as of 2:00 p.m. Eastern Time at 1/365th of the rate then in force and shall be compounded quarterly as of the date of each adjustment of the rate.

V. Issues Resolved

501. All pending and potential civil or administrative claims, whether or not known, demands, liabilities, causes of action or other proceedings by DOE, whether or not heretofore raised by an issue letter, NOPV, Proposed Remedial Order, Remedial Order, lawsuit, or otherwise, regarding Pennzoil's compliance with the entitlements regulations with respect to transactions occurring during the period July 1976 through December 1977 between

Pennzoil and small refiners as part of an industry investigation by DOE or otherwise, including the issues raised in said Proposed Remedial Order, are resolved and extinguished by the Consent Order. The parties hereto also expressly agree that exception (2) of paragraph 501 of the 1981 Consent Order between Pennzoil and the DOE (described in paragraph 302 hereof) shall have no further force and effect.

502. (a) Compliance by Pennzoil with this Consent Order shall be deemed by the DOE to constitute full compliance for administrative and civil purposes with all federal petroleum price and allocation regulations regarding the subject matter of this Consent Order. In consideration for performance as required under this Consent Order by Pennzoil, the DOE hereby releases Pennzoil completely and for all purposes from said Proposed Remedial Order and all other administative and civil judicial claims, demands, liabilities or causes of action, including without limitation, claims for civil penalties, that the DOE has asserted or might otherwise be able to assert against Pennzoil before or after the date of this Consent Order for alleged violations of the federal petroleum price and allocation regulations regarding the subject matter of this Consent Order. The DOE will not initiate or prosecute any such administrative or civil matter against Pennzoil or cause or refer any such matter to be initiated or prosecuted, nor will the DOE or its successors directly or indirectly aid in the initiation of any such administrative or civil matter against Pennzoil or participate voluntarily in the prosecution of such actions. The DOE will not assert voluntarily in any administrative or civil judicial proceeding that Pennzoil has violated the federal petroleum price and allocation regulations with respect to the subject matter of this Consent Order or otherwise take any action with respect to Pennzoil in derogation of this Consent Order. However, nothing contained herein shall preclude the DOE from defending the validity of the federal petroleum price and allocation regulations.

(b) The DOE reserves the right to initiate and prosecute enforcement actions against any person other than Pennzoil for violation of the federal petroleum price and allocation regulations. Furthermore, Pennzoil and the DOE agree that this Consent Order and the payments hereunder do not resolve, reduce, or release the liability of any other person for any violations.

(c) The DOE will not seek or recommend any criminal fines or penalties based on information or evidence presently in its possession for the subject matter of this Consent Order, provided, however, that nothing in this Consent Order precludes the DOE from (1) seeking or recommending such criminal fines or penalties if information subsequently coming to its attention indicates, either by itself or in combination with information or evidence presently known to the DOE, that a criminal violation may have occurred or (2) otherwise complying with its obligations under law with regard to forwarding information of possible criminal violations of law to appropriate authorities. Nothing contained herein may be construed as a bar, estoppel, or defense against any criminal or civil action brought by an agency of the United States other than the DOE under (i) section 210 of the Economic Stabilization Act of 1970 or (ii) any statute or regulation other than the federal petroleum price and allocation regulations. Finally, this Consent Order does not prejudice the rights of any third party or Pennzoil in any private action, including an action, for contribution by or against Pennzoil.

(d) Pennzoil releases the DOE completely and for all purposes from all administrative and civil judicial claims, liabilities, or causes of action that Pennzoil has asserted or may otherwise be able to assert against the DOE relating to the DOE's administration of the federal petroleum price and allocation regulations regarding the subject matter of this Consent Order. This release, however, does not preclude Pennzoil from asserting any factual or legal position or argument as a defense against any action, claim, or proceeding brought by the DOE, the United States, or any agency of the United States.

503. Execution of this Consent Order constitutes neither an admission by Pennzoil nor a finding by the DOE of any violation by Pennzoil of any statute or regulation. The DOE has determined that it is not appropriate to seek to impose civil penalties for the matters covered by this Consent Order, and the DOE will not seek any such civil penalties. None of the payments or expenditures made by Pennzoil pursuant to this Consent Order are to be considered for any purpose as penalties, fines, or forfeitures, or as settlement of any potential liability for penalties, fines, or forfeitures.

504. Notwithstanding any other provision herein, with respect to the subject matter of this Consent Order, the DOE reserves the right to initiate an enforcement proceeding or to seek appropriate penalties for any newly discovered regulatory violations committed by Pennzoil, but only if Pennzoil has concealed facts relating to such violations. The DOE and Pennzoil also reserve the right to seek appropriate judicial remedies, other than full rescission of this Consent Order, for any misrepresentation of fact material to this Consent Order during the course of the audit or the negotiations that preceded this Consent Order.

VI. Recordkeeping, Reporting and Confidentiality

601. Pennzoil shall maintain such records as are necessary to demonstrate compliance with the terms of this Consent Order. Upon completion of payment to DOE of the amount set forth in paragraph 402 of this Consent Order, Pennzoil is relieved of its obligation to comply with the recordkeeping requirements of the federal petroleum price and allocation regulations relating exclusively to the subject matter of this Consent Order.

602. Except for formal requests for information regarding other firms subject to the DOE's information gathering and reporting authority, Pennzoil will hot be subject to any audit requests, report orders, subpoenas, or other administrative discovery by DOE relating to Pennzoil's compliance with the federal petroleum price and allocation regulations regarding the subject matter of this Consent Order.

603. The DOE will treat the sensitive commercial and financial information provided by Pennzoil pursuant to negotiations which were conducted with respect to this Consent Order or obtained by the DOE in its audit of Pennzoil and related to matters covered by this Consent Order as confidential and proprietary and will not disclose such information unless required to do so by law, including a request by a duly authorized committee or subcommittee of Congress. If a request or demand for release of any such information is made pursuant to law, the DOE will claim any privilege or exemption reasonably available to it. The DOE will provide Pennzoil with ten (10) days actual notice, if possible, of any pending disclosure of such information, unless prohibited or precluded from doing so by law or request of Congress. The DOE will retain the audit information which it has acquired during its review of Pennzoil's compliance with the federal petroleum price and allocation regulations in accordance with the DOE's established records retention procedures. Notwithstanding the otherwise confidential treatment

afforded such information by the terms of this Consent Order, the DOE will make such information available to the Department of Justice ("DOJ") in response to a request pursuant to the DOE's statutory authority by a duly authorized representative of DOJ. If requested by the DOJ, the DOE shall not disclose that such a request has been made. Nothing in this paragraph shall be deemed to waive or prejudice any right Pennzoil may have independent of this Consent Order regarding the disclosure of sensitive commercial and financial nformation.

VII. Contractual Undertaking

701. It is the understanding and express intention of Pennzoil and the DOE that this Consent Order constitutes a legally enforceable contractual undertaking that is binding on the parties and their successors and assigns. Notwithstanding any other provision herein, Pennzoil (and its successors and assigns) and the DOE each reserves the right to institute a civil action in an appropriate United States district court, if necessary, to secure enforcement of the terms of this Consent Order, and the DOE also reserves the right to seek appropriate penalties and interest for any failure to comply with the terms of this Consent Order. The DOE will undertake the defense of the Consent Order, as made effective, in response to any litigation challenging the Consent Order's validity in which the DOE is named a party. Pennzoil agrees to cooperate with the DOE in the defense of any such challenge.

VIII. Final Order

801. Upon becoming effective, this Consent Order shall be a final order of DOE having the same force and effect as a remedial order issued pursuant to section 503 of the DOE Act, 42 U.S.C. 7193, and 10 CFR 205.199B. Pennzoil hereby waives its right to administrative or judicial review of this Order, but Pennzoil reserves the right to participate in any such review initiated by a third party.

Effective Date

901. Pursuant to 10 CFR 205.199J, this Consent Order shall become effective as a final order of the DOE upon notice to that effect being published in the **Federal Register**; prior to that date, DOE will publish notice in the **Federal Register** that it proposes to make this Consent Order final, providing not less than thirty (30) days for members of the public to submit written comments to ERA, and will consider any such comments before making a final determination. DOE and Pennzoil agree to consult if DOE or Pennzoil has occasion to consider the desirability of modifying the Consent Order before it becomes effective.

Dated: December 10, 1986.

I, the undersigned, a duly authorized representative of Pennzoil Company hereby agree to and accept on behalf of Pennzoil Company the foregoing Consent Order.

John P. Mathis,

Baker & Botts, Counsel for Pennzoil Company.

Dated: December 10, 1986.

I, the undersigned a duly authorized representative of the Department of Energy hereby agree to and accept on behalf of the Department of Energy the foregoing Consent Order.

Marshall A. Staunton,

Administrator, Economic Regulatory Administration.

[FR Doc. 87-1704 Filed 1-23-87; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 86-64-NG]

Natural Gas Imports; Fiscus Inc.; Application To Import Natural Gas From Canada

AGENCY: Econimic Regulatory Administration, Department of Energy.

ACTION: Notice of application for blanket authorization to import natural gas from Canada for short-term and spot sales.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on December 23, 1986, of the application of Fiscus Inc. (Fiscus), a Nevada corporation, for blanket authorization to import from Canada up to 250 Bcf of natural gas during a two-year term beginning on the date of first delivery, The natural gas would be purchased from a variety of suppliers located in Canada. The Canadian gas would be sold in the U.S. on a short-term and spot market basis to such purchasers as local distribution companies, electric utilities, pipelines and industrial and commercial end-users. Fiscus would import the gas for its own account or as an agent for both Canadian suppliers and U.S. purchasers. The firm intends to use existing facilities to transport the imported gas, and purposes to inform the ERA of the date of its first transaction, and to file quarterly reportes to the ERA. The quarterly reports would be filed within 30 days following each calendar quarter and would show the details of each transaction, including parties, price, volume, transporters, term of the agreements, take-or-pay or make-up provisions, if any, points of entry, and markets served.

The application was filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204-111. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed no later than February 25, 1987.

FOR FURTHER INFORMATION CONTACT:

Chuck Boehl, Natural Gas Division, Economic Regulatory Administration, Forrestal Building, Room GA-076 1000 Independence Avenue SW., Washington, DC. 20585 (202) 586-6050

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-6667.

SUPPLEMENTARY INFORMATION: The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which competiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant has asserted that the import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intevene, or notice of intervention, as applicable, and written comments. Any person wishing to become a party to this proceeding and to have written comments considered as a basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this applicaton will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural

action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA–076, RG–23, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478. They must be filed no later than 4:30 p.m. February 25, 1987.

The Administrator intends to develop a decisional record on the application through responses to the notice by parties, including the parties' written comments and replies thereto.

Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request for an oral conference, or trial-type hearing. Any request for an oral presentation shouuld indentify the substantial question of fact, law or policy at issue, show that it is material and relevant to a decision on the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuienly in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based upon the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Fiscus' application is available for inspection and copying in the Natural Gas Division Docket Room, GA–076, at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, January 14, 1987.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87–1670 Filed 1–23–87; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ERA–C&E–86–19; OFP Case No. 61057–9304–21–22]

Extension of Decision Period on Petition for Exemption by Consolidated Power Co. for a Proposed Powerplant To Be Located in West Rutland, VT

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of extension

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby extends by six months to July 18, 1987, the Decision Period within which to either grant or deny the request for a permanent exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) (FUA) filed by Consolidated Power Co. for its proposed gas-fired combined cycle powerplant to be located in West Rutland, Vermont. Section 501.68(a) of 10 CFR Part 501—Administrative Procedure and Sanctions, Subpart F—allows for the extension of the decision period on an exemption petition to a specified date by publishing such notice in the **Federal Register** and stating the reasons for such extension.

This extension by ERA of the decision period to grant or deny the petition is necessary to enable Consolidated Power Co. to furnish additional environmental data and to properly consider issues associated with this case.

Issued in Washington, DC on January 12, 1987.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87–1669 Filed 1–23–87; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ERA–C&E–87–01; OFP Case No. 64012–9295–26–24]

Order Granting to Klondike Equity Enterprises, Inc., Exemption From the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Order granting exemption.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that it has granted a permanent cogeneration exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* ("FUA" or "the Act"), to Klondike Equity Enterprises, Inc. (KEE or "the petitioner"). The permanent cogeneration exemption permits the use of natural gas as the primary energy source for a 27.6 MW (net, approximate) combined cycle cogeneration facility designed to produce electricity and process steam at the Klondike IV facility located in Palm Springs, California. The final exemption order and detailed information on the proceeding are provided in the **SUPPLEMENTARY INFORMATION** section, below.

DATES: The order shall take effect on March 27, 1987.

The public file containing a copy of the order, other documents, and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue SW., Room 1E–190, Washington, DC 20585, Monday through Friday, 9:00 a.m. to 4:00 p.m., except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Steven Mintz, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue SW., Room GA–076, Washington, DC 20585, Telephone (202) 586–9506

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6A–113, 1000 Independence Avenue SW., Washington, DC 20585, Telephone (202) 586–6947.

SUPPLEMENTARY INFORMATION: On October 9, 1986, KEE petitioned ERA under section 212(c) of FUA and 10 CFR 503.37 for a permanent congeneration exemption to permit the use of natural gas in a 27.6 MW (net, approximate) combined cycle cogeneration facility consisting of a gas turbine and generator, a heat recovery steam generator, a steam turbine and generator, an absorption refrigeration package, and ancillary equipment. It is expected that more than 50 percent of the net annual electric power produced by KEE will be sold to Southern California Edison Company, making the cogeneration facility an electric powerplant pursuant to the definitions contained in 10 CFR 500.2. The facility will also produce thermal energy for an absorption refrigeration system, water heating, and comfort heating system at the adjoining recreational complex.

Procedural Requirements

In accordance with the procedural requirements of section 701(c) of FUA and 10 CFR 501.3(b), ERA published its Notice of Acceptance of Petition and Availablity of Certification in the **Federal Register** on November 17, 1986

(51 FR 41528, commencing a 45-day public comment period.)

A copy of the petition was provided to the Environmental Protection Agency for comments as required by section 701(f) of the Act. During the comment period, interested persons were afforded an opportunity to request a public hearing. The comment period closed on January 2, 1987; no comments were received and no hearing was requested.

Order Granting Permanent Cogeneration Exemption

Based upon the entire record of this proceeding, ERA has determined that KEE has satisfied the eligibility requirements for the requested permanent cogeneration exemption, as set forth in 10 CFR 503.37. Therefore, pursuant to section 212(c) of FUA, ERA hereby grants a permanent cogeneration exemption to KEE to permit the use of natural gas as the primary energy source for its cogeneration facility at Klondike IV in Palm Springs, California.

Pursuant to section 702(c) of the Act and 10 CFR 501.69, any person aggrieved by this order may petition for judicial review thereof at any time before the 60th day following the publication of this order in the **Federal Register.**

Issued in Washington, DC on January 14, 1987.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-1668 Filed 1-23-87; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

Special Research Grant Program Notice 87-3

AGENCY: Department of Energy.

ACTION: Notice inviting grant applications.

SUMMARY: The Office of Energy Research of the Department of Energy (DOE) hereby announces its interest in receiving applications for a Special Research Grant supporting a multidisciplinary research, training and service program for characterization of chemical structures of complex carbohydrates, primarily derived from plants and microorganisms. Interest in these materials as renewable resources and as key regulatory and recognition molecules dictates that better comprehension of structures of structures be achieved in order to understand the fundamental role of these molecules in biology and also in considering any future application in biotechnology. This notice emphasizes a specific research objective contained in the Basic Energy Sciences program descriptions which are discussed in 10 CFR Part 605, Appendix A. The Catalog of Federal Domestic Assistance number for this program is 81.049. Information about submission of applications, eligiblity, limitations, evaluation and selection processes, and other policies and procedures may be found in 10 CFR Part 605. Additional information regarding the background that underlies the establishment of and the desired characteristics of such a program may be found in a summary of a workshop on complex carbohybrates held May 20–21, 1984. (See address section of this notice for obtaining copies of these documents.)

DATES: Selection will be made in Fiscal Year 1987; therefore, submission of an application prior to March 16, 1987 is encouraged.

ADDRESSES: The completed application referencing *Program Notice 87-3* should be forwarded to: U.S. Department of Energy, Division of Acquisition and Assistance Management Divsion, Office of Energy Research, Room G-236, Washington, D.C. 20545.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Rabson, U.S. Department of Energy, Division of Biological Energy Research, Office of Basic Energy Sciences, ER-17, Washington, D.C. 20545, (301) 353-2873. Contact with the Division of Biological Energy Research office is recommended prior to any submissions.

SUPPLEMENTARY INFORMATION: The intent of this particular grant is to support research, training and service that will be state-of-the-art in respect to capabilities of providing precise, accurate and prompt data on complex carbohydrate structures of plants and microorganisms. This efforts of several disciplinary approaches should be emphasized. Research on structure and function of complex carbohydrates should go on in parallel with the involvement of graduate and post-doctoral students who may receive training in a multidisciplinary mode. This enterprise will be expected to display the merging of contemporary biology and physical sciences thinking and approaches.

It is anticipated that one award will be made of up to $700,000 which will be available during Fiscal Year 1987. The level for subsequent years would be expected to increase. Five years of support is currently planned subject to availability of funds. The funds may be used for salaries of staff, stipends for graduate students and post-doctoral investigators, equipment, and other items consistent with the concept of a research, training and service entity dedicated to complex carbohydrates of plants and mocroorganisms. No funds under this grant are to be designated for construction. The concept of shared funding of the venture between the institution and DOE is strongly encouraged. The application Kit, copies of 10 CFR Part 605, and the workshop summary are available from the U.S. Department of Energy, Division of Acquisition and Assistance Management (see above for address.)

Issued in Washington, D.C., on January 8, 1987.

Ira M. Adler,

Deputy Director for Management, Office of Energy Research.

[FR Doc. 87-1667 Filed 1-23-87; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. GP87-12-000]

ANR Pipeline Co.; Petition for Declaratory Order

January 20, 1987.

Take notice that on December 2, 1986, ANR Pipeline Company (ANR) filed with the Commission a petition for a declaratory order under Rule 207[1] of the Commission's rules of practice and procedure. ANR seeks a ruling regarding the interpretation of the term "recompletion gas" as that term is defined in § 271.402(b)(4)(iv) of the Commission's regulations.[2]

Specifically, ANR requests a ruling that gas produced through the use of a device known as a "sliding sleeve" to open previously unproductive reservoirs for production should not qualify as "recompletion gas" and thus the gas should be subject to a lower applicable price under the Natural Gas Policy Act of 1978 (NGPA). ANR states that the use of a "sliding sleeve" is a relatively inexpensive means used to produce gas from a previously unproductive zone. ANR describes the "sliding sleeve" as a down hole flow control device mounted in the production tubing. ANR states that the "sliding sleeve" is positioned opposite a previously perforated well zone when the well is initially completed and that the "sliding sleeve" is removed by an operation costing no more than $10,000 when the operator wants to produce from the zone

[1] 18 CFR 385.207 (1986).

[2] 18 CFR 271.402(b)(4)(iv) (1986).

discovered during the initial completion. ANR thus concludes that gas produced by this inexpensive technique used to produce different zones should not qualify as "recompletion gas" as defined in the Commission's regulations.

Any person desiring to be heard or to protest this petition should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with the requirements of Rules 211 or 214 of the Commission's rules of practice and procedure. Motions to intervene or protest should be filed not later than 30 days following publication of this notice in the **Federal Register**. All protests filed will be considered by the Commission but will not make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-1601 Filed 1-23-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-31-000]

ANR Pipeline Co.; Petition for Waiver of Tariff Provisions

January 21, 1987.

Take notice that on January 16, 1987, ANR Pipeline Company (ANR) tendered for filing a Petition for Waiver of Tariff Provisions pursuant to Rule 207 of the Federal Energy Regulatory Commission's regulations.

ANR seeks waiver of sections 4.2 and 8.5 of Rate Schedule CD-1, Section 4 of Rate Schedule MC-1 and section 1(a) of Rate Schedule SGS-1, all of which Rate Schedules are part of ANR's FERC Gas Tariff, Original Volume No. 1. As set forth more fully in the petition, grant of the petition will allow ANR to waive the minimum bill provisions of its tariff where ANR undertakes transportation service of its local distribution utility customers.

Copies of this filing have been served on all of ANR's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before January 28, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-1610 Filed 1-23-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI87-152-000 et al.]

Coquina 74-B Exploration Program et al., Applications for Limited-term Abandonment With Pre-Granted Abandonment for Sales Under Small Producer Certificates

January 20, 1987.

Take notice that the applicants listed herein have filed applications pursuant to section 7 of the Natural Gas Act for limited-term abandonment and pregranted abandonment to sell natural gas for resale in interstate commerce under their small producer certificates, as described herein.

The circumstances presented in the applications meet the criteria for consideration on an expedited basis, pursuant to Section 2.77 of the Commission's rules as promulgated by Order No. 436 and 436-A, issued October 9, and December 12, 1985, respectively, in Docket No. RM85-1-000, all as more fully described in the applications which are on file with the Commission and open to public inspection.

Accordingly, any person desiring to be heard or to make any protest with reference to said applications should on or before 15 days after the date of publication of this notice in the Federal Register, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party of the proceeding herein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI87-152-000, B, Nov. 28, 1986 [1].	Coquina 74-B Exploration Program, P.O. Box 2960, Midland, Texas 79702.	Natural Gas Pipeline Company of America, Crawford Field, Section 36-T24S-R26E, Eddy County, New Mexico.	([2])	
CI87-153-000, B, Nov. 28, 1986 [1].	Coquina 74-A Exploration Program, and the Nautilus Venture III, P.O. Box 2960, Midland, Texas 79702.	Natural Gas Pipeline Company of America, Carlsbad South Field, Section 16-T23S-R26E, Eddy County, New Mexico.	([3])	
CI87-154-000, B, Nov. 28, 1986 [1].	Bengal 72B, T.R. LTD. and Nautilus Venture, P.O. Box 2960, Midland, Texas 79702.	Natural Gas Pipeline Company of America, Atoka West Field, Section 12-T18S-R25E, Eddy County, New Mexico.	([4])	
CI87-155-000, B, Nov. 28, 1986 [1].	Coquina 74-A Exploration Program, and Nautilus Venture III, P.O. Box 2960, Midland, Texas 79702.	El Paso Natural Gas Company, McKittrick Canyon Field, Section 23-T22S-R25E, Eddy County, New Mexico.	([5])	
CI87-156-000, B, Nov. 28, 1986 [1].	.....do.....	Natural Gas Pipeline Company of America, Carlsbad South Field, Section 21-T23S-R26E, Eddy County, New Mexico.	([6])	
CI87-157-000, B, Nov. 28, 1986 [1].	Bengal 72-B, P.O. Box 2960, Midland, Texas 79702.	Natural Gas Pipeline Company of America, Atoka West Field, Section 1-T18S-R25E, Eddy County, New Mexico.	([7])	

[1] Additional information received December 23, 1986.

[2] Applicant, a small producer certificate holder in Docket No. CS75-129, requests a three-year limited-term abandonment of its sale of gas to Natural from the Jake State No. 1 Well, located in Crawford Field, section 36-T24S-R26E, Eddy County, New Mexico, pursuant to a gas purchase contract dated April 8, 1975. The contract's primary term will expire on November 18, 1995, subject to either party's ability to terminate the contract anytime thereafter upon the giving of written notice.

In support of its application Applicant states that Natural has restricted gas takes to little or no volumes in the past year. The well produces NGPA section 104 1973-1974 Biennium gas and has a deliverability of approximately 600 Mcf/day. Applicant intends to market available gas production on the spot market to various interested purchasers.

[3] Coquina 74-A Exploration Program and The Nautilus Venture III, small producer certificate holders in Docket Nos. CS 75-137 and CS75-130, respectively, request a three-year limited-term abandonment for the sale of gas to Natural from the State 16 No. 1 Well, located in Carlsbad, South Field, section 16-T23S-R26E, Eddy County, New Mexico, pursuant to a gas purchase contract dated July 9, 1975. The contract's primary term will expire November 18, 1995, subject to either party's ability to terminate the contract anytime thereafter upon the giving of written notice.

In support of their application Applicants state that Natural has restricted gas takes to little or no volumes in the past year. The well produces NGPA section 104 1973-1974 Biennium gas and has a deliverability of approximately 50 Mcf/day. Applicants intend to market available gas production on the spot market to various interested purchasers.

[4] Bengal 72-B, T.R. LTD. and The Nautilus Venture, small producer certificate holders in Docket Nos. CS75-134, CS75-133 and CS75-135, respectively, request a three-year limited-term abandonment for the sale of gas to Natural from the Hare No. 1 Well, located in Atoka, West Field, Section 12-T18S-R25E, Eddy County, New Mexico, pursuant to a gas purchase contract dated May 25, 1973. The contract's primary term has expired, but the contract remains active due to an evergreen clause.

In support of their application Applicants state that Natural has restricted gas takes to little or no volumes in the past year. The well produces NGPA section 104 1973-1974 Biennium gas and has a deliverability of approximately 20 Mcf/day. Applicants intend to market available gas production on the spot market to various interested purchasers. Applicant has included with its filing a proposed letter agreement which among other things indicates Natural's willingness to support the release of the gas, as well as the abandonment of jurisdictional gas, in a mutual agreement.

[5] Coquina 74-A Exploration Program and Nautilus Venture III, small producer certificate holders in Docket Nos. CS75-137 and CS75-130, respectively, request a three-year limited-term abandonment for sale of gas to El Paso from the FAF Federal No. 1 Well, located in McKittrick Canyon, Section 23/fT22S-R25E, Eddy County, New Mexico, pursuant to a gas purchase contract dated May 8, 1979. The contract's primary term has expired, but the contract remains active due to an evergreen clause.

In support of their application Applicants state that Natural has restricted gas takes to little or no volumes in the past year. The well produces NGPA section 104 1973-1974 Biennium gas and has a deliverability of approximately 60 Mcf/day. Applicants intend to market available gas production on the spot market to various interested purchasers. Applicant has included with its filing a proposed letter agreement which among other things indicates Natural's willingness to support the release of the gas, as well as the abandonment of jurisdictional gas, in a mutual agreement.

[6] Coquina 74-A Exploration Program and Nautilus Venture III, small producer certificate holders in Docket Nos. CS75-137 and CS75-130, respectively, request a three-year limited-term abandonment for sale of gas to Natural from the Philly Federal No. 1 Well, located in Carlsbad, South Field section 21-T23S-R26E, Eddy County, New Mexico, pursuant to a gas purchase contract dated April 4, 1975. The contract's primary term will expire on November 18, 1995, subject to either party's ability to terminate the contract anytime thereafter upon the giving of written notice.

In support of their application Applicants state that Natural has restricted gas takes to little or no volumes in the past year. The well produces NGPA section 104 1973-1974 Biennium gas and has a deliverability of approximately 100 Mcf/day. Applicants intend to market available gas production on the spot market to various interested purchasers.

[7] Applicant, a small producer certificate holder in Docket No. CS75-134, requests a three-year limited-term abandonment of its sale of gas to Natural from the Superior Federal No. 1 Well, located in Atoka, West Field, section 1-T18S-R25E, Eddy County, New Mexico, pursuant to a gas purchase contract dated May 25, 1973. The subject gas contract's primary term has expired, but the contract remains active due to an evergreen clause.

In support of their application Applicant states that Natural has restricted gas takes to little or no volumes in the past year. The well produces NGPA section 104 1973-1974 Biennium gas and has a deliverability of approximately 40 Mcf/day. Applicant intends to market available gas production on the spot market to various interested purchasers. Applicant has included with its filing a proposed letter agreement which among other things indicates Natural's willingness to support the release of the gas, as well as the abandonment of jurisdictional gas, in a mutual agreement.

Filing Code: A—Initial Service. Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 87-1607 Filed 1-23-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA87-3-34-000, 001]

Florida Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

January 20, 1987.

Take notice that on January 15, 1987, Florida Gas Transmission Company (FGT), tendered for filing the following tariff sheets to its FERC Gas Tariff to be effective February 1, 1987.

13th Revised Sheet No. 8 of First Revised Volume No. 1
36th Revised Sheet No. 128 of Original Volume No. 2

The above listed tariff sheets were filed to reflect an increase in FGT's jurisdictional rates due to an increase in its average cost of gas purchased from that level reflected in its last Semi-annual PGA filing effective October 1, 1986 in Docket No. TA87-1-34-000. The effect of such filing is to increase FGT's weighted average cost of purchased gas from $2.0253/MMBtu to $2.4353/MMBtu saturated. The impact on FGT's jurisdictional rates is an increase of

4.150¢/therm for Rate Schedules G and I and 1.22¢/Mcf for Rate Schedule T-3 as measured against the purchased gas cost included in FGT's last semi-annual PGA filing effective October 1, 1986. In order to implement FGT's out-of-cycle PGA increase, FGT has requested such Commission waivers as may be necessary to approve its filing effective February 1, 1987.

Copies of this filing were served on FGT's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Pocedure. All such motions or protests should be filed on or before January 27, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-1615 Filed 1-23-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-165-001]

Kentucky West Virginia Gas Co.; Rescinding Duplicative Notice

January 20, 1987.

The filing noticed by the Commission on January 2, 1987 (52 FR 578, January 7, 1987), had previously been noticed on October 8, 1986. Therefore, the January 2, 1987 notice is rescinded.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-1609 Filed 1-23-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI87-225-000]

Mobil Oil Corp.; Application for Blanket Limited-Term Certificate With Pregranted Abandonment

January 20, 1987.

Take notice that on January 12, 1987, Mobil Oil Corporation ("Mobil"), pursuant to section 7(c) of the Natural Gas Act, filed an application for a limited-term blanket certificate of public convenience and necessity with pregranted abandonment to sell natural gas in interstate commerce for resale. The circumstances presented in the application meet the criteria for consideration on an expedited basis, pursuant to § 2.77 of the Commission's rules as promulgated by Order No. 436 and 436-A, issued October 9, and December 12, 1985, respectively, in Docket No. RM85-1-000, all as more fully described in the application which is on file with the Commission and open to public inspection.

The instant application covers NGPA section 104 flowing gas produced from wells in the Hugoton Field, Kearny County, Kansas, and sold under a 1961 contract with Colorado Interstate Gas Company ("CIG"). On January 9, 1987, the Commission issued an order in Docket No. CI64-1079-000 permitting and approving the limited-term abandonment of sales to CIG attributable to Mobil's interests in the subject wells. By order issued the same day in Docket No. CS 71-126, the Commission permitted and approved the limited-term abandonment of sales to CIG attributable the interests of Osborn Heirs Company ("OHC"), a certificated small producer and the operator of the subject wells. The Commission also gave OHC pregranted abandsonment authorization for sales in interstate commerce for resale under its small producer certificate of gas subject to the related limited-term abandonment.

In its instant application, Mobil now states that both Mobil and OHC desire that released and abandoned gas attributable to their respective interests in these wells be sold to the same third-party purchaser or purchasers. Mobil further states that OHC presently is negotiating with various purchasers to sell the gas produced from the subject wells, and that sales to certain of these purchasers would be sales in interstate commerce for resale subject to the Commission's NGA jurisdiction.

Mobil states that it seeks blanket certificate authorization with pregranted abandonment authorization during the term of the abandonment issued in Docket No. CI64-1079-000 so as to have the ability to sell in interstate commerce released and abandoned gas attributable to its interests in OHC-operated wells, with respect to which Mobil's deliverability is approximately 45,000 MMBtu per day, to various third-party purchasers during the term of the abandonment. Without a blanket certificate, Mobil states that it would have to file for certificate authority for each individual jurisdictional sale arranged by OHC, which operates and markets the gas from the subject wells. Not only would this put jurisdictional customers at a regulatory disadvantage, to the extent that gas attributable to Mobil's interests were unavailable for sale due to regulatory restraints, but it also would limit OHC's ability to market available released gas and would require all working interest owners to enter into balancing agreements, which Mobil claims is an unnecessary administrative burden.

Accordingly, any person desiring to be heard or to make any protest with reference to said applications should on or before 15 days after the date of publication of this notice in the **Federal Register**, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding herein must file a petition to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-1616 Filed 1-23-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-206-010]

Northern Natural Gas Company, Division of Enron Corp.; Tariff Filing

January 21, 1987.

Take notice that on January 16, 1987, Northern Natural Gas Company, Division of Enron Corp. (Northern) tendered for filing the following tariff sheets to be a part of its FERC Gas Tariff:

Third Revised Volume No. 1

Forty-First Revised Sheet No. 4b, Tenth Revised Sheet No. 4b.1

Original Volume No. 2

Forty-Ninth Revised Sheet No. 1c

Northern states that this filing is being made pursuant to the December 22, 1986 Order approving the settlement filed by Northern in the Docket No. RP85-206 proceeding, subject to several modifications. The order modified the settlement to require that the settlement take-or-pay buyout costs not be allocated to market area transportation customers. The Commission order required such costs to be allocated only to sales customers, resulting in an increase in the settlement sales rates, and a corresponding reduction to the transportation rate. Although Northern believes this modification is incorrect and will address it on rehearing, this provision of the order affects rates currently being charged Northern's customers. Thus, it is necessary that Northern file to increase its present sales rates to collect the full impact of the settlement take-or-pay buyout costs in the sales rates, pending the Commission's decision on this issue on rehearing. With this filing, Northern requests authority to increase its jurisdictional sales rates by $0.0069/MMBtu to be effective on January 17, 1987.

Northern requests waiver of all Commission rules and regulations as necessary to permit the tendered tariff sheets to become effective the beginning of the gas day on January 17, 1987. Copies of this filing have been mailed to each of Northern's gas utility customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before January 28, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-1611 Filed 1-23-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI87-126-000]

Republic Mineral Corp.; Application for Abandonment With Pregranted Abandonment for Sales Under Small Producer Certificate

January 20, 1987.

Take notice that on November 20, 1986, as supplemented on December 11 and 18, 1986, Republic Mineral Corporation (Republic), P.O. Box 27406, Houston, Texas 77227-7406 has filed an application under section 7(b) of the Natural Gas Act and § 2.77 of the Commission's rules. Republic requests that the Commission issue an order granting Republic (1) authority to abandon sales to Northwest Pipeline Corporation (Northwest) of certain gas which is subject to NGA jurisdiction from wells designated as the: Republic/Ute No. 1, Mesa Verde (SE/4 NW/4 Sec. 35), Republic/Ute No. 1, Dakota (SE/4 NW/4 Sec. 35), and Republic/Ute Government No. 2 Dakota (SE/4 NW.4 Sec. 36), Ignacio Blanco Prospect, La Plata County, Colorado, and (2) blanket pregranted authorization for a limited-term of three-years for any future sales of such gas under its small producer certificate issued in Docket No. CS73-187. Republic states that it is subject to substantially reduced takes without payment, the volumes involved are approximately 8,000 Mcf/day, and the wells have a maximum lawful price of $1.241 per MMBtu as of December, 1986.

The circumstances presented in the application meet the criteria for consideration on an expedited basis, pursuant to § 2.77 of the Commission's rules as promulgated by Order No. 436 and 436-A, issued October 9, and December 12, 1985, respectively, in Docket No. RM85-1-000, all as more fully described in the application which is on file with the Commission and open to public inspection.

Accordingly, any person desiring to be heard or to make any protest with reference to said application should on or before 15 days after the date of publication of this notice in the Federal Register, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding herein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-1608 Filed 1-23-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER87-219-000]

Southern California Edison Co.; Filing

January 21, 1987.

Take notice that, on January 14, 1987, Southern California Edison Company ("Edison") tendered for filing, as an initial rate schedule, the following Agreement, which has been executed by Edison and the City of Azusa, California ("Azusa"):

Edison-Azusa

CDWR—Firm Transmission Service Agreement

Under the terms and conditions of the Agreement, Edison will make available to Azusa firm transmission service for its purchases of nonintegrated capacity and energy from the California Department of Water Resources ("CDWR") to the Point of Delivery at Azusa Substation, Azusa, California.

The Agreement is proposed to become effective when executed by the Parties and accepted for filing by the Commission (without changes unacceptable to either party); and as such, Edison requests, to the extent necessary, waiver of notice requirements.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the City of Azusa, California.

Any person desiring to be heard or to protest this application shuld file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 or 214 of the Commissioner's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 27, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-1612 Filed 1-23-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA87-31-000]

Petition for Adjustment, Anadarko Petroleum Corp.

January 20, 1987.

On November 24, 1986, Anadarko Petroleum Corporation filed with the Federal Energy Regulatory Commission a petition for waiver pursuant to Commission Order No. 399–A,[1] section 502(c) of the Natural Gas Policy Act of 1978,[2] and Subpart K of the Commission's Rules of Practice and Procedure.[3] Anadarko seeks waiver of that portion of its Btu refund obigation attributable to certain royalties paid by it to the Mineral Management Service of the U.S. Department of the Interior (MMS). Under Order No. 399, these refunds were due by November 5, 1986,[4] but this deadline has been postponed.[5]

Anadarko requests waiver on grounds that MMS has taken the position that refunds not filed for within the statute of limitations period under section 10 of the Outer Continental Shelf Lands Act are barred.[6]

The procedures applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure. Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provisions of Subpart K. All motions to intervene must be filed within 15 days after publication of this notice in the **Federal Register.**

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–1600 Filed 1–23–87; 8:45 am]

BILLING CODE 6717-01-M

[1] Refunds Resulting from Btu Measurement Adjustments, 49 FR 46,353 (November 26, 1984); FERC Stats. & Regs. [Regulations Preambles 1982–1985] ¶ 30,612.

[2] 15 U.S.C. 3412(c) (1982).

[3] 18 CFR 385.1101–.1117 (1986).

[4] 49 FR 37735 at 37740 (September 26, 1984), FERC Stats. & Regs. [Regulations Preambles 1982–1985) ¶ 30,597 at p. 31,150. In Order No. 399, the Commission established refund procedures for charges for natural gas that exceeded NGPA ceilings as a result of Btu measurements based on the water vapor content of the gas "as delivered," rather than on a water saturated basis. In so doing, the Commission was implementing the decision in *Interstate Natural Gas Association of America* v. *Federal Energy Regulatory Commission*, 716 F.2d 1 (D.C. Cir. 1983), *cert. denied*, 465 U.S. 1108 (1984).

[5] In Order No. 399-C, issued November 5, 1986, the Commission postponed the November 5, 1986 deadline for payment of Btu refunds attributable to royalty payments for any first seller that has a petition on file with the Commission seeking waiver of or postponement of the deadline to pay Btu refunds attributable to royalty payments.

[6] 43 U.S.C. 1339 (1982).

[Docket No. GP87-7-000]

DeNovo Oil & Gas, Inc., v. Yankee Pipeline Co; Complaint

January 20, 1987.

On November 17, 1986, DeNovo Oil & Gas, Inc. (DeNovo) filed a complaint pursuant to 18 CFR 271.1105(d)(3) and Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206. DeNovo requests the Production-Related Costs Board (Board) to find that Yankee Pipeline Company (Yankee) is in violation of 18 CFR 271.1104 by refusing to reimburse DeNovo for $327,450.64 in production-related costs.

DeNovo states that it sells gas to Yankee from the Hankamer "A" Nos. 2 and 3 wells located in Hidalgo County, Texas, pursuant to a gas purchase contract dated April 9, 1981. The contract provides for the reimbursement of all production-related costs.

In March 1986, Yankee was billed $327,450.64 for production-related delivery and compression charges incurred for both wells between April 1981 and April 1983. DeNovo claims that Yankee did not question either the amount or the well descriptions and supporting information furnished to it, but refused to pay citing in a letter dated July 16, 1986, that such costs "are to be collected through installments over a period of time commencing with March 3, 1983 and ending December 31, 1984."

DeNovo believes that the position taken by Yankee is inconsistent with the Rules and Regulations established by the Commission and requests that the Board issue an order (1) finding that Yankee is in violation of 18 CFR 271.1104 for failure to pay DeNovo $327,450.64 in production-related costs, and (2) confirming DeNovo's entitlement to the production-related costs.

Under the Rules 206(b) and 213(a), 18 CFR 385.206(b) and 385.213(a), Yankee must file an answer to DeNovo's complaint with the Commission unless otherwise ordered by the Commission. Under Rule 213(e), 18 CFR 385.213(e), any person failing to answer a complaint may be considered in default, and all relevant facts stated in such complaint may be deemed admitted. Yankee shall file its answer with the Commission not later than 15 days after publication of this notice in the **Federal Register.**

Any person desiring to be heard or to protest said filing should file a protest or a motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214, 18 CFR 385.211 and 385.214. All such protests or motions should be filed not later than 15 days after publication of this notice in the **Federal Register.** Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–1604 Filed 1–23–87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP87-14-000]

DeNovo Oil & Gas, Inc., v. United Gas Pipe Line Co; Complaint

January 20, 1987.

On December 18, 1986, DeNovo Oil & Gas, Inc. (DeNovo) filed a complaint pursuant to 18 CFR 271.1105(d)(3) and Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206. DeNovo requests the Production-Related Costs Board (Board) to find that United Gas Pipe Line Company (United) is in violation of 18 CFR 271.1104 by refusing to reimburse DeNovo for $17,088.20 in production-related costs incurred between June 1981 and December 1984.

DeNovo states that by invoice dated March 20, 1986, United was billed $17,088.20 in production-related costs due under a contract dated June 16, 1981, covering wells in the Hordes Creek Field, Goliad County, Texas. United responded to the invoice by stating that it needed time to review the contract to determine whether or not the contract has "expressed authorization." DeNovo claims that the contract has specific language for the collection of production-related costs and does not understand why it will take United 8–10 months to make a determination that the contract has "expressed authorization."

DeNovo requests that the Board issue an order finding that United is in violation of 18 CFR 271.1104 by refusing to reimburse DeNovo in a timely manner for $17,088.20 in production-related costs.

Under the Rules 206(b) and 213(a), 18 CFR 385.206(b) and 385.213(a), United must file an answer to DeNovo's complaint with the Commission unless otherwise ordered by the Commission. Under Rule 213(e), 18 CFR 385.213(e), any person failing to answer a complaint may be considered in default, and all relevant facts stated in such

complaint may be deemed admitted. United shall file its answer with the Commission not later than 15 days after publication of this notice in the **Federal Register.**

Any person desiring to be heard or to protest said filing should file a protest or a motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214, 18 CFR 385.211 and 385.214. All such protests or motions should be filed not later than 15 days after publication of this notice in the **Federal Register.** Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–1605 Filed 1–23–87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP87–15–000]

DeNovo Oil & Gas, Inc., v. United Gas Pipe Line Co., Complaint

January 20, 1987.

On December 18, 1986, DeNovo Oil & Gas, Inc. (DeNovo) filed a complaint pursuant to 18 CFR 271.1105(d)(3) and Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206. DeNovo requests the Production-Related Costs Board (Board) to find that United Gas Pipe Line Company (United) is in violation of 18 CFR 271.1104 by refusing to reimburse DeNovo for $459,553.18 in production-related costs incurred between April 1982 and December 1984.

DeNovo states that by invoice dated April 9, 1986, United was billed $459,553.18 in production-related costs due under a contract dated April 2, 1982, covering wells in the Siegen Field, East Baton Rouge Parish, Louisiana. United responded to the invoice by stating that it needed time to review the contract to determine whether or not the contract has "expressed authorization." DeNovo claims that the contract has specific language for the collection of production-related costs and does not understand why it will take United 8–10 months to make a determination that the contract has "expressed authorization."

DeNovo requests that the Board issue an order finding that United is in violation of 18 CFR 271.1104 by refusing to reimburse DeNovo in a timely manner for $459,553.18 in production-related costs.

Under the Rules 206(b) and 213(a), 18 CFR 385.206(b) and 385.213(a), United must file an answer to DeNovo's complaint with the Commission unless otherwise ordered by the Commission. Under Rule 213(e), 18 CFR 385.213(e), any person failing to answer a complaint may be considered in default, and all relevant facts stated in such complaint may be deemed admitted. United shall file its answer with the Commission not later than 15 days after publication of this notice in the **Federal Register.**

Any person desiring to be heard or to protest said filing should file a protest or a motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214, 18 CFR 385.211 and 385.214. All such protests or motions should be filed not later than 15 days after publication of this notice in the **Federal Register.** Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commisison and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–1606 Filed 1–23–87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP87–9–000]

Castle, Inc., v. Transcontinental Gas Pipe Line Corp.; Complaint

January 20, 1987.

On December 1, 1986, Castle, Inc. (Castle) filed a complaint pursuant to 18 CFR 271.1105(d)(3) and Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206. Castle requests the Production-Related Costs Board (Board) to find that Transcontinental Gas Pipe Line Corporation (Transco) is in violation of 18 CFR 271.1104 by refusing to reimburse Castle for $18,281.04 in production-related costs incurred between July 25, 1980 through March 7, 1983 (retroactive Period).

Castle states that by invoice dated July 16, 1986, as revised August 19, 1986, Transco was billed $18,281.04 in production-related costs due under a contract dated November 7, 1974, covering wells in the LaGloria Gas Unit Production, Brooks and Jim Wells Counties, Texas. Transco responded to the invoice stating that Castle was precluded from receiving collections for the retroactive period because the invoices were dated after December 31, 1984.

Castle asserts that the issue in this case is whether 18 CFR 271.1104 bars Castle from collecting production-related costs incurred prior to March 7, 1983, because it did not submit an invoice to Transco until after 1984. It believes that the Commission did not intend for its regulations to operate in the manner asserted by Transco, but was merely one recovery mechanism to avoid a huge lump sum payment by pipelines.

Castle requests that the Board issue an order finding Transco in violation of 18 CFR 271.1104 for failure to pay Castle $18,281.04 in production-related costs.

Castle also requests that in the alternative if a waiver of the time frame for requesting collection of production-related costs prior to March 7, 1983 is required, then it is requesting such a waiver. The Board's authority to dispose of matters initiated by referrals and complaints is set forth under 18 CFR 271.1105(d). Castle's request for waiver does not fall under § 271.1105(d) and is therefore dismissed from this proceeding.

Under the Rules 206(b) and 213(a), 18 CFR 385.206(b) and 385.213(a), Transco must file an answer to Castle's complaint with the Commission unless otherwise ordered by the Commission. Under Rule 213(e), 18 CFR 385.213(e), any person failing to answer a complaint may be considered in default, and all relevant facts stated in such complaint may be deemed admitted. Transco shall file its answer with the Commission not later than 15 days after publication of this notice in the **Federal Register.**

Any person desiring to be heard or to protest said filing should file a protest or a motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Rules 211 and 214, 18 CFR 385.211 and 385.214. All such protests or motions should be filed not later than 15 days after publication of this notice in the **Federal Register.** Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–1603 Filed 1–23–87; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3146-3]

Management Advisory Group to the Construction Grant Program; Open Meeting February 11-12, 1987

Under Pub. L. 19-463, notice is hereby given that a meeting of the Management Advisory Group to the Construction Grant Program (MAG) will be held at the Mayflower Hotel, South Carolina Room, 1127, Connecticut Avenue, NW., Washington, DC 20036, beginning at 9:00 a.m., on February 11 and ending at about 12 Noon on February 12, 1987.

The agenda will include a review and discussion of the 1986 Needs Survey for Municipal Wastewater Treatment Facilities, and a discussion and development of recommendations for the implementation of any new legislation for the reauthorization of the Clean Water Act that may be enacted by the time of the meeting. The agenda will also include briefings and discussions on other topics of current or future interest to MAG. Any members of the public wishing to make comments are invited to submit them in writing to the Executive Secretary at the meeting.

The meeting will be open to the public. Additional information on the meeting may be obtained from Ms. Georgette Brown at the Environmental Protection Agency, WH-547, 401 M Street, SW., Washington, DC 20460, Telephone number: (202) 382-5859.

Dated: January 16, 1987.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water (WH-556).

[FR Doc. 87-1630 Filed 1-23-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-784-DR]

Washington; Major-Disaster Declaration; Amendment

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Washington (FEMA-784-DR), dated December 15, 1986, and related determinations.

DATED: January 15, 1987.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3616.

Notice

The notice of a major disaster for the State of Washington, dated December 15, 1986, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of December 15, 1986:

The City of Long Beach in Pacific County and the Town of Sultan in Snohomish County for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 87-1598 Filed 1-23-87; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL HOME LOAN BANK BOARD

First Savings & Loan Assn. of Burkburnett, Burkburnett, TX; Appointment of Receiver

Notice is hereby given that the Commissioner, Texas Savings and Loan Department for the State of Texas ("Commissioner") appointed the Federal Savings and Loan Insurance Corporation ("FSLIC") as receiver for First Savings and Loan Association of Burkburnett, Burkburnett, Texas ("First"), and that pursuant to the authority contained in section 406(c)(1) of the National Housing Act, as amended (12 U.S.C. 1729(c)(1) (1982), the FSLIC accepted the tender of the Commissioner, Texas Savings and Loan Department of the appointment as receiver for First, for the purpose of liquidation, effective January 16, 1987.

Dated: January 20, 1987.

By the Federal Home Loan Bank Board.

Nadine Y. Washington,

Acting Secretary.

[FR Doc. 87-1661 Filed 1-23-87; 8:45 am]

BILLING CODE 6720-01-M

First Savings & Loan Assn. of Burkburnett, Burkburnett, TX; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 406(c)(2) of the National Housing Act, as amended, 12 U.S.C. 1729(c)(2) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole receiver for the purpose of liquidation for First Savings and Loan Association of Burkburnett, Burkburnett, Texas, on January 16, 1987.

Dated: January 20, 1987.

By the Federal Home Loan Bank Board.

Nadine Y. Washington,

Acting Secretary.

[FR Doc. 87-1662 Filed 1-23-87; 8:45 am]

BILLING CODE 6720-01-M

Umpqua Savings & Loan Association, Roseburg, OR; Appointment of Receiver

Notice is hereby given that pursuant to the authority contained in section 406(c)(2) of the National Housing Act, as amended, 12 U.S.C. 1729(c)(2) (1982), the Federal Home Loan Bank Board appointed the Federal Savings and Loan Insurance Corporation as sole receiver for Umpqua Savings and Loan Association, Roseburg, Oregon on January 16, 1987.

Dated: January 20, 1987.

Nadine Y. Washington,

Acting Secretary.

[FR Doc. 87-1663 Filed 1-23-87; 8:45 am]

BILLING CODE 6720-01-M

Umpqua Savings & Loan Association, Roseburg, OR; Appointment of Conservator

Notice is hereby given that the Circuit Court of the State of Oregon for the County of Douglas has confirmed the appointment by the Supervisor, Savings and Loan, Credit Union and Consumer Finance Section, Financial Institutions Division for the State of Oregon ("Oregon") of a conservator for Umpqua Savings and Loan Association, Roseburg, Oregon ("Umpqua"), and that pursuant to the authority contained in section 406(c)(1) of the National Housing Act, as amended (12 U.S.C. 1729(c)(1) (1982), the Federal Savings and Loan Insurance Corporation accepted the tender of the Supervisor of the appointment as conservator for Umpqua, for the purpose of liquidation, effective January 16, 1987.

Dated: January 20, 1987

Nadine Y. Washington,

Acting Secretary.

[FR Doc. 87-1660 Filed 1-23-87; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Listing of Controlled Carriers Under the Shipping Act of 1984

AGENCY: Federal Maritime Commission.

ACTION: Listing of controlled carriers..

SUMMARY: The Federal Maritime Commission is adding Nauru Pacific Line and National Shipping Corporation of the Philippines to the list of controlled carriers subject to the advance tariff filing and other regulatory requirements of section 9 of the Shipping Act of 1984.

DATE: None.

FOR FURTHER INFORMATION CONTACT: Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 1100 L Street NW, Washington, DC 20573.

SUPPLEMENTARY INFORMATION: Sections 3(8) and 9 of the Shipping Act of 1984, 46 U.S.C. app. 1702 and 1708, provide for the regulation of rates or charges by certain state-controlled carriers in the foreign commerce of the United States. Based on information obtained from Nauru Pacific Line and the National Shipping Corporation of the Philippines, and from other sources, including the U.S. Department of State, the Commission has determined that each of the two carriers named above meets the definition of a controlled carrier as set forth in section 3(8) of the Act. Letters dated November 25, 1986 were sent to both of the carriers named above as well as their agents in the United States, notifying them of such determination and neither responded to the letters. The Commission therefore is adding Nauru Pacific Line and National Shipping Corporation of the Philippines to its list of controlled carriers, previously published in the **Federal Register** on Tuesday, November 5, 1985 [50 FR 45937].

The amended list is show below:

Baltic Shipping Co.—U.S.S.R.
Bangladesh Shipping Corp.—Bangladesh.
Black Sea Shipping Company—U.S.S.R.
Black Star Line—Ghana.
China Ocean Shipping Co. (COSCO)—People's Republic of China.
Compagnie Maritime Zairoise (CMZ)—Zaire.
Compagnie Nationale Algerienne de Navigation—Algeria.
Companhia de Navegacao Loide Brasileiro—Brazil.
Compania Peruana de Vapores—Peru.
Djakarta Lloyd P. T.—Indonesia.
Egyptian National Line—Egypt.
Empresa Maritima del Estado (Empremar Line)—Chile.
Far Easter Shipping Co. (FESCO)—U.S.S.R.
Flota Bananera Ecuatoriana S.A.—Ecuador.
Flota Mercante Gran Centro Americana S.A. (Flomerca)—Guatamela.
MISR Shipping Company (MISR)—Egypt.
Murmansk Shipping Co. (Arctic Line)—U.S.S.R.
Nauru Pacific Line—Nauru.
National Galleon Shipping Coporation—Philippines.
National Shipping Corporation of the Philippines—Philippines.
Neptune Orient Lines (NOL)—Singapore.
Pakistan National Shipping Corporation—Pakistan.
Pharaonic Shipping Co. (S.A.E.) (Pharaonic)—Egypt.
Polish Ocean Lines—Poland.
Shipping Corporation of India—India.
Sudan Shipping Line Limited—Sudan.
Transportes Navieros Ecuatorianos (Transnave)—Ecuador.

This process of identification and classification of controlled carriers is continuous. The list as shown will be amended as such carriers enter and leave the United States trades.

By the Commission

January 16, 1987.

Joseph C. Polking,

Secretary.

[FR Doc. 87-1658 Filed 1-23-87; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Exposure Matrix for Dioxin Mortality Study; Open Meeting

The following meeting will be convened by the National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control (CDC) and will be open to the public for observation and participation, limited only by the space available:

Date: February 20, 1987.

Time: 8:30 a.m. to 2 p.m.

Place: Conference Room C, 555 Ridge Avenue, Cincinnati, Ohio 45213.

Purpose: The purpose of this meeting is to review the application of the exposure matrix in the ongoing NIOSH Study of Dioxin Mortality. Viewpoint and suggestions from industry, organized labor, academia, other government agencies, and the public are invited.

Additional information may be obtained from: Marilyn A. Fingerhut, Ph.D., Division of Surveillance, Hazard Evaluations, and Field Studies, NIOSH, CDC, 4676 Columbia Parkway, Cincinnati, Ohio 45226, Telephones: FTS: 684-4411, Commercial: 513/841-4411.

Dated: January 20, 1987.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 87-1617 Filed 1-23-87; 8:45 am]

BILLING CODE 4160-19-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM-010-3110-10-7202]

Albuquerque District, NM; Realty Action of Proposed BLM/State Land Exchange in Torrance and Cibola Counties, NM; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction—Notice of Realty Action on Proposed BLM/State Land Exchange (NM 65251)

SUMMARY: In FR Doc. 86-27971 appearing in page 44951 in the issue of Monday, December 15, 1986, make the following correction: Include T. 6N. R. 14E., Sec. 13, NW ¼; NE¼; the entry under T. 5N., R. 4E. should read T. 5N., R. 14E., under T. 8N., R. 13W., the entry for "Sec. 12" should read SE¼. SW¼, SW¼ SE ¼, under T. 2N., R. 12E., the entry for "Sec. 13" should read "Sec. 12". The entry under T. 8N., R. 10E., Sec. 19 should read "Sec. 24" instead of "Sec. 14".

Dated: January 20, 1987.

L. Paul Applegate,

District Manager.

[FR Doc. 87-1618 Filed 1-23-87; 8:45 am]

BILLING CODE 4310-FB-M

[OR-930-07-4212-12; GP7-044; OR 39641]

Realty Action; Exchange of Public Lands in Deschutes, Harney, Lake, and Malheur Counties, OR

The following described public lands have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Willamette Meridian

Burns District

Lake County

T. 27 S., R. 23 E.,
Sec. 13: NE¼SW¼, S½SW¼, W½SE¼
Sec. 23: E½NE¼
Sec. 24: All
Sec. 25: All
Sec. 36: N½

Harney County

T. 27 S., R. 24 E.,
Sec. 19: Lots 3, 4, E½SW¼
Sec. 30: Lots 1, 2
T. 28 S., R. 34 E.,
Sec. 36: N½N½
T. 29 S., R. 36 E.,
Sec. 17: NW¼NW¼
Sec. 18: Lots 1, 2, NE¼, E½NW¼, NE¼SW¼

Lakeview District

Lake County

T. 27 S., R. 23 E.,
Sec. 20: E½
Sec. 21: All
Sec. 22: All
Sec. 23: W½NE¼, NW¼, S½
Sec. 26: All
Sec. 27: All
Sec. 28: All
Sec. 33: E½, E½W½
Sec. 34: All
Sec. 35: N½, SW¼, NW¼SE¼
T. 28 S., R. 23 E.,
Sec. 1: Lots 1, 2, 3, 4, S½N½, N½S½, S½SW¼
Sec. 2: Lots 1, 2, 3, 4, S½N½, N½S½, SE¼NW¼, S½SE¼
Sec. 11: N½NE¼

Harney County

T. 28 S., R. 24 E.,
Sec. 6: Lot 4

Prineville District

Deschutes County

T. 22 S., R. 23 E.,
Sec. 26: NE¼NW¼, NE¼NW¼NW¼, NE¼SE¼NW¼

Vale District

Malheur County

T. 25 S., R. 40 E.,
Sec. 6: Lots 3, 5, SE¼NW¼
T. 21 S., R. 42 E.,
Sec. 7: Lot 1
T. 26 S., R. 42 E.,
Sec. 21: W½
T. 21 S., R. 43 E.,
Sec. 29: S½SW¼
T. 35 S., R. 45 E.,
Sec. 1: Lots 2, 3, and 4
Sec. 12: SE¼SW¼
Sec. 13: SE¼NE¼, W½NE¼, E½W½, SE¼
Sec. 24: W½NE¼, E½NE¼, E½NW¼, NE¼SW¼, SE¼
Sec. 25: NE¼NE¼
T. 30 S., R. 46 E.,
Sec. 25: S½S½, NE¼SE¼
T. 32 S., R. 46 E.,
Sec. 33: NW¼NE¼, N½NW¼, S½N½
T. 35 S., R. 46 E.,
Sec. 29: SW¼
Sec. 30: Lot 1, NE¼, NE¼NW¼, NE¼SE¼
Sec. 32: W½NE¼, SE¼NE¼
Sec. 33: SW¼SW¼
T. 30 S., R. 47 E.,
Sec. 19: Lots 3 and 4
Sec. 30: All (Lots 1, 2, 3, and 4)

The area described aggregates 12,783.92 acres in Deschutes, Harney, Lake, and Malheur County, Oregon.

In exchange for these lands, the Federal Government will acquire the following described state lands from the Oregon division of State Lands:

Willamette Meridian

Burns District

Grant County

T. 14 S., R. 26 E.,
Sec. 36: NE¼NE¼
T. 9 S., R. 27 E.,
Sec. 36: NE¼, NE¼SW¼, E½SE¼
T. 7 S., R. 29 E.,
Sec. 8: N½NE¼, NE¼NW¼ (exceptions)

Harney County

T. 27 S., R. 24 E.,
Sec. 7: Lots 2, 3, SE¼NW¼
T. 25 S., R. 25 E.,
Sec. 35: SE¼SE¼
T. 26 S., R. 25 E.,
Sec. 2: Lot 2, SE¼NW¼
Sec. 10: SW¼NE¼, NE¼SW¼, SW¼SW¼
Sec. 16: N½N½, S½NW¼, SW¼NE¼, NW¼SW¼
Sec. 17: SE¼SE¼
T. 33 S., R. 31 E.,
Sec. 24: W½, W½SE¼
T. 23 S., R. 34 E.,
Sec. 16: N½NE¼, SW¼NE¼, SE¼NW¼, NE¼SW¼, NW¼SE¼
T. 26 S., R. 35 E.,
Sec. 27: SW¼, NW¼SE¼
T. 28 S., R. 35 E.,
Sec. 31: Lot 3, E½SW¼
T. 29 S., R. 35 E.,
Sec. 3: SW¼SW¼
Sec. 5: Lot 4, SW¼NE¼, S½NW¼, N½SE¼
Sec. 6: Lot 1
Sec. 10: S½NE¼, E½NW¼
Sec. 11: S½NW¼, W½SE¼, SE¼SE¼
Sec. 12: SW¼SW¼
Sec. 13: SW¼NE¼, NW¼
T. 29 S., R. 36 E.,
Sec. 4: N½SW¼
Sec. 5: SE¼NE¼, E½SE¼
Sec. 8: NE¼SE¼, SW¼SE¼
Sec. 10: NW¼NW¼, SE¼NW¼, N½SE¼, SE¼SE¼
Sec. 11: S½SW¼, SW¼SE¼

Lakeview District

Klamath County

T. 38 S., R. 13 E.,
Sec. 27: SE¼NE¼
Sec. 34: SW¼NW¼, N½SW¼, W½SE¼
Sec. 36: NE¼, S½
T. 39 S., R. 14 E.,
Sec. 6: SE¼SE¼
Sec. 16: SE¼NE¼, N½NW¼, NE¼SW¼, SE¼
Sec. 18: SE¼SW¼
Sec. 19: NE¼NW¼
T. 40 S., R. 14 E.,
Sec. 36: W½NE¼, SE¼NE¼, SE¼
T. 41 S., R. 14½ E.,
Sec. 16: All

Lake County

T. 32 S., R. 17 E.,
Sec. 16: All
T. 34 S., R. 21 E.,
Sec. 36: Lots 1, 2, 3, 4, 5, 6

Prineville District

Deschutes County

T. 16 S., R. 11 E.,
Sec. 33: NW¼NE¼, N½NW¼, SW¼NW¼
T. 21 S., R. 20 E.,
Sec. 36: E½

Crook County

T. 16 S., R. 14 E.,
Sec. 32: SE¼
Sec. 34: N½NE¼, SE¼NE¼
Sec. 35: N½
Sec. 36: W½NW¼, NE¼NW¼, SE¼NE¼
T. 16 S., R. 18 E.,
Sec. 8: SE¼NW¼, NE¼ SW¼
T. 19 S., R. 18 E.,
Sec. 10: NE¼NE¼
T. 19 S., R. 20 E.,
Sec. 11: NE¼NE¼
T. 17 S., R. 23 E.,
Sec. 36: S½SE¼, SE¼SW¼
T. 21 S., R. 23 E.,
Sec. 36: All

Gilliam County

T. 5 S., R. 19 E.,
Sec. 16: E½SW¼
T. 4 S., R. 23 E.,
Sec. 16: SE¼NW¼, NE¼SW¼, SW¼NE¼, N½NW¼

Wheeler County

T. 9, S., R. 23 E.,
Sec. 9: N½NW¼

Vale District

Malheur County

T. 17 S., R. 37 E.,
Sec. 36: W½SW¼
T. 18 S., R. 37 E.,
Sec. 36: NE¼NE¼
T. 29 S., R. 37 E.,
Sec. 15: SW¼SW¼SW¼
Sec. 22: S½NE¼NW¼
Sec. 23: SW¼NW¼SW¼
Sec. 25: S½SE¼NW¼, SW¼NE¼SE¼
T. 35 S., R. 37 E.,
Sec. 16: N½
T. 18 S., R. 38 E.,
Sec. 16: S½NE¼, SE¼
T. 29 S., R. 38 E.,
Sec. 22: SE¼SW¼, NE¼SE¼, S½NW¼ SE¼, SW¼SE¼
Sec. 30: SW¼ of Lot 4
Sec. 31: S½NE¼NW¼
T. 18 S., R. 40 E.,
Sec. 16: All
T. 16 S., R. 41 E.,
Sec. 24: SE¼SE¼
T. 39 S., R. 41 E.,
Sec. 36: NW¼
T. 16 S., R. 42 E.,
Sec. 19: Lot 3 and 4
Sec. 36: All
T. 19 S., R. 42 E.,
Sec. 16: All
T. 17 S., R. 43 E.,
Sec. 36: All
T. 26 S., R. 43 E.,
Sec. 16: E½SE¼NE¼, E½E½SE¼
T. 22 S., R. 44 E.,
Sec. 36: Lots 1–8, NE¼NE¼, SW¼, W½SE¼, SE¼SE¼
T. 23 S., R. 44 E.,
Sec. 16: Lots 1–8, 10, NE¼NE¼, S½NE¼, E½SW¼, SE¼
T. 26 S., R. 44 E.,
Sec. 16: Lots 2, 3, 4, 5, SW¼NE¼, NW¼NW¼

The area described above aggregates 14,188.3 acres of state lands in Crook, Deschutes, Gilliam, Grant, Harney, Klamath, Lake, Malheur, and Wheeler County, Oregon.

The purpose of the land exchange is to "clean up" scattered state parcels left subsequent to previously completed exchanges between the state of Oregon and BLM. The Oregon Division of State Lands will dispose of isolated tracts that are difficult and uneconomical to manage, and will acquire parcels of Federal lands combined into larger blocks. BLM will acquire parcels presently adjoining or surrounded by public lands. In each instance, the public will benefit from cost effective and efficient resource management opportunities on state and Federal land.

The value of the lands to be exchanged is approximately equal, and the acreage will be adjusted to equalize the values upon completion of the final appraisal of the lands.

The exchange will be subject to:

1. The reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove the minerals. A more detailed description of this reservation, which will be incorporated in the patent document, is available for review at the BLM Oregon State Office or one of the District offices listed below.

3. The prior rights of lessees to use so much of the surface of the lands as is required for oil and gas operations. All existing mineral leases will remain in effect until expiration.

4. Grazing permits or leases authorized under the Taylor Grazing Act of 1934, as amended (43 U.S.C. 315) will remain in effect until the end of the 2-year prior notification period, unless unconditionally waived by the permittee or lessee.

5. All other valid existing rights, including but not limited to any right-of-way, easement or lease of record.

6. Parcels withdrawn in Power Site Reserve No. 3 will remain subject to section 24 of the Federal Power Act of 1920, as amended (16 U.S.C. 818).

The publication of this notice in the **Federal Register** will segregate the Federal lands described above to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. As provided by the regulations of 43 CFR 2201.1(b), any subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed and shall be returned to the applicant.

Detailed information concerning the exchange, including the environmental analysis and record of public discussions, is available for review at the Oregon State Office, Lloyd Center Tower, 825 N.E. Multnomah, (P.O. Box 2965) Portland, OR 97208, or at one of the following District offices:

District Manager, Burns District, 74 South Alvord Street, Burns, OR 97720
District Manager, Lakeview District, 1000 Ninth Street South, Lakeview, OR 97630
District Manager, Prineville District, P.O. Box 550, Prineville, OR 97754
District Manager, Vale District, 100 East Oregon Street, Vale, OR 97918

For a period of 45 days from the date of publication of the notice in the **Federal Register**, interested parties may submit comments to the Oregon State Director at the above address. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Dated: January 6, 1987
Victor E. Pritchard,
Acting Burns District Manager.
Dated: January 8, 1987
Dick Harlow,
Associate Lakeview District Manager.
Dated: January 12, 1987
Danald L. Smith,
Acting Prineville District Manager.
Dated: December 23, 1986
David Lodzinski,
Acting Vale District Manager.
[FR Doc. 87-4310 Filed 1-23-87; 8:45 am]
BILLING CODE 4310-33-M

[NV-943-07-4220-10; N-16095]

Legal Description of Nellis Air Force Range Withdrawal; NV

January 13, 1987.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice provides official publication of the legal description of the Nellis Air Force Range withdrawal in Nevada as required by section 2(a) of Pub. L. 99-606 enacted November 6, 1986.

EFFECTIVE DATE: November 6, 1986.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, Bureau of Land Management, Nevada State Office, P.O. Box 12000, Reno, Nevada 89520, (702) 784-5481.

SUPPLEMENTARY INFORMATION: The legal description of the public land withdrawal for the Nellis Air Force Range effected by Pub. L. 99-606 is as follows:

Mount Diablo Meridian, Nevada

Tps. 1, 2, 3, and 4 S., R. 44 E., All.
T. 5 S., R. 44 E., partly unsurveyed, secs. 1-2; 10-16 incl; 20-36 incl.
T. 6 S., R. 44 E., unsurveyed, All.
T. 7 S., R. 44 E., unsurveyed, secs. 1-5, incl; 8-16 incl; 22-26 incl; 35, 36.
T. 8. S., R. 44 E., unsurveyed, sec. 1.
Tps. 1, 2, 3, and 4 S., R. 45 E., All.
Tps. 5, 6, and 7 S., R. 45 E., unsurveyed, All.
T. 8 S., R. 45 E., unsurveyed, secs. 1-18 incl; 20-27 incl; 35, 36.
Tps. 1 and 2 S., R. 46 E., All.
Tps. 3, 4, 5, 6, 7, and 8 S., R. 46 E., unsurveyed, All.
T. 9 S., R. 46 E., unsurveyed, secs. 1-6 incl; 8-15 incl; 23, 24.
Tps. 1 and 2 S., R. 47 E., All.
Tps. 3, 4, 5, 6, 7, and 8 S., R. 47 E., unsurveyed, All.
T. 9 S., R. 47 E., unsurveyed, secs. 1-30, incl; 33-36 incl.
T. 10 S., R. 47 E., Secs, 1, 2, 12.
Tps. 1 and 2 S., R. 48 E., All.
Tps. 3, 4, 5, 6, 7, 8, and 9 S., 48 E., unsurveyed, All.
T. 10 S., R. 48 E., unsurveyed, secs. 1-17, incl; 21-26 incl; 36.
Tps. 1 and 2 S., R. 49 E., All.
Tps. 3, 4, 5, 6, and 7 S., R. 49 E., unsurveyed, All.
T. 8 S., R. 49 E., unsurveyed.
Secs.1-11 incl; 14-23 incl; 26-35 incl;
Secs. 12, 13, 24, 25, 36, excl of those portions w/d by PLO 2568.
T. 9 S., R. 49 E., unsurveyed,
Secs. 2-11 incl; 14-23 incl; 26-35 incl;
Secs. 1, 12, 13, 24, 25, 36, excl of those portions w/d by PLO 2568.
T. 10 S., R. 49 E., unsurveyed,
Secs. 2-11 incl; 14-23 incl; 26-35 incl;
Secs. 1, 12, 13, 24, 25, 36, excl of those portions w/d by PLO 2568.
T. 11 S., R. 49 E., unsurveyed
Secs. 2-11 incl; 14-23 incl; 26-35 incl;
Secs. 1, 12, 13, 24, 25, 36, excl of those portions w/d by PLO 2568.
T. 12 S., R. 49 E., unsurveyed,
Secs. 2-11 incl; 14-23 incl; 26-35 incl;
Secs. 1, 12, 13, 24, 25, 36, excl of those portions w/d by PLO 2568.
Tps. 1, 2, 3, 4, 5, 6, and 7 S., R. 50 E., unsurveyed, All.
T. 8 S., R. 50 E., unsurveyed,
Secs. 1-6 incl;
Secs 7-12 incl; excl of those portions w/d by PLO 2568.
Tps. 2, 3, 4, 5, 6, and 7 S., R. 51 E., unsurveyed, All.
T. 8 S., R. 51 E., unsurveyed,
Secs. 1-6 incl;
Secs 7-12 incl; excl of those portions w/d by PLO 2568.
Tps. 3 and 4 S., R. 51½ E., unsurveyed, All.
Tps. 3, 4, 5, 6, and 7 S., R. 52 E., unsurveyed, All.
T. 8 S., R. 52 E., unsurveyed,
Secs. 1-6 incl;
Secs 7-12 incl; excl of those portions w/d by PLO 2568 and 805.
Tps. 3 and 4 S., R. 53 E., All.

Tps. 5, 6, and 7 S., R. 53 E., unsurveyed, All.
T. 8 S., R. 53 E., unsurveyed,
Secs. 1–6 incl;
Secs 7–12 incl; excl of those portions w/d by PLO 805.
T. 3 S., R. 54 E., secs. 4–9 incl; 16–21 incl; 28–33 incl.
T. 4 S., R. 54 E., secs. 4–9 incl; 16–21 incl; 28–33 incl.
Tps. 5 and 6 S., R. 54 E., unsurveyed, All.
T. 7 S., R. 54 E., unsurveyed,
Secs. 1–34 incl;
Secs. 35, 36, excl of those portions w/d by PLO 1662.
T. 8 S., R. 54 E., unsurveyed,
Secs. 3–6 incl;
Secs. 2, 7–11 incl, 35, 36, excl of those portions w/d by PLOs 805 and 1662.
T. 9 S., R. 54 E., unsurveyed,
Secs. 1, 12, 13, 24, 25, 36;
Secs. 2, 11, 14, 23, 26, 35, excl of those portions w/d by PLO 805.
T. 10 S., R. 54 E., unsurveyed,
Secs. 1, 12, 13, 24, 25, 36;
Secs. 2, 11, 14, 23, 26, 35, excl of those portions w/d by PLO 805.
T. 11 S., R. 54 E., unsurveyed,
Secs. 1, 12, 13, 24, 25, 36;
Secs. 2, 11, 14, 23, 26, 35, excl of those portions w/d by PLO 805.
T. 12 S., R. 54 E., unsurveyed,
Secs. 1, 12, 13, 24, 25, 36;
Secs. 2, 11, 14, 23, 26, 35, excl of those portions w/d by PLO 805.
T. 13 S., R. 54 E., unsurveyed,
Secs. 10–15 incl; 22–27 incl; 34–36 incl;
Secs. 9, 16, 21, 28, 33, excl of those portions w/d by PLO 805.
T. 14 S, R. 54 E., unsurveyed,
Secs. 1–3 incl; 10–15 incl; 22–27 incl; 34–36 incl;
Secs. 4, 9, 16, 21, 28, 33, excl of those portions w/d by PLO 805.
T. 16 S., R. 54 E., secs. 1–3, N½, incl; sec. 4, NE¼.
T. 5 S., R. 55 E., unsurveyed,
Secs. 2–11 incl; 14–23 incl; 26–35 incl.
T. 6 S., R. 55 E., unsurveyed,
Secs. 2–11 incl; 14–23 incl; 26–35 incl.
T 7 S., R. 55 E., unsurveyed,
Secs. 2–11 incl; 14–23 incl; 26–30 incl;
Secs. 31–35 incl, excl of those portions w/d by PLO 1662;
Sec. 36, S½, excl of those portions w/d by PLO 1662.
T. 8 S., R. 55 E., unsurveyed,
Secs. 31–36 incl, excl of those portions w/d by PLO 1662.
Tps. 9, 10, 11, 12, 13, and 14 S., R. 55 E., unsurveyed, All.
T. 16 S., R. 55 E., secs. 1–6, N½, incl.
T. 7 S., R. 55½ E., unsurveyed,
Secs. 31–33, S½, incl, excl of those portions w/d by PLO 1662.
T. 8 S., R. 55½ E., unsurveyed,
Secs. 4, 9, 16, 21, 28, 31–33 incl, excl of those portions w/d by PLO 1662.
Tps. 9, 10, 11, 12, 13, 14, and 15 S., R. 55½ E., unsurveyed, All.
T. 16 S., R. 55½ E., secs. 1, 2, N½.
Tps. 8, 9, 10, 11, 12, 13, and 14 S., R. 56 E., unsurveyed, All.
T. 15 S., R. 56 E., All.
T. 16 S., R. 56 E.,
Secs. 1 and 2, All;
Sec. 3, lots 5, 6, 7, 8, 9, E½;
Sec. 4, lots 5, 6, 7, 8;
Sec. 5, lots 5, 6, 7, 8, 9, NW¼, W½NE¼;
Sec. 6, lots 8, 9, NE¼, W½;
Sec. 8, lot 1;
Sec. 9, lot 1;
Tracts 38, 39, 40, 41, 42 A, B and C.
Tps. 8, 9, 10, 11, 12, 13, 14, and 15 S., R. 57 E., unsurveyed, All.
T. 16 S., R. 57 E., unsurveyed,
Secs. 1–6 incl;
Sec. 7, NE¼;
Secs. 8–16 incl;
Sec. 17, NE¼;
Sec. 20, SE¼SW¼, S½SE¼;
Sec. 21, NE¼, SW¼SW¼;
Secs. 22–26 incl;
Sec. 27, NE¼;
Sec. 28, NW¼NW¼;
Sec. 29, N½NE¼; NE¼NW¼;
Sec. 35, NE¼;
Sec. 46, All.
Tps. 8, 9, 10, 11, 12, 13, 14, and 15 S., R. 58 E., unsurveyed, All.
T. 16 S., R. 58 E., unsurveyed,
Secs. 1–10 incl; 15–22 incl; 27–34 incl.
T. 17 S., R. 58 E.,
Secs. 1–4 incl;
Sec. 5, NE¼;
Sec. 9, NE¼;
Sec. 10, N½, N½SW¼, SE¼SW¼, SE¼;
Secs. 11, 12;
Sec. 13, NW¼;
Sec. 14, N½, NE¼SW¼, SE¼;
Sec. 15, NE¼NE¼.
Tps. 8, 9, 10, 11, 12, 13, and 14 S., R. 59 E., unsurveyed, All.

The area described above aggregates approximately 2,945,726 acres in Clark, Lincoln and Nye Counties.

A copy of the legal description and the map depicting the involved lands are on file for public inspection in the following offices:

Director (322), Bureau of Land Management, Room 3643, Interior Bldg., 18th and C Streets, NW., Washington, DC 20240.
State Director, Bureau of Land Management, Nevada State Office, P.O. Box 12000, 850 Harvard Way, Reno, Nevada 89520.
Bureau of Land Management, Las Vegas District Office, 4765 Vegas Drive, P.O. Box 26569, Las Vegas, Nevada 89126.
Director, U.S. Fish and Wildlife Service, Room 3256, Interior Bldg., 18th and C Streets, NW., Washington, DC 20240.
Director, U.S. Fish & Wildlife Service, Lloyd 500 Bldg., Suite 1692, 500 N.E. Multnomah Street, Portland, Oregon 97232.
Commander, Nellis Air Force Base, Las Vegas, Nevada 89191.
Office of the Secretary, Department of Defense, The Pentagon, Washington, DC 20301–1000.

Robert G. Steele,

Deputy State Director, Operations.

[FR Doc. 87–1596 Filed 1–23–87; 8:45 am]

BILLING CODE 4310-HC-M

National Park Service

Chesapeake & Ohio canal National Historical Park Commission; Meeting

Notice is hereby given in accordance with Federal Advisory Committee Act that a meeting of the Chesapeake and Ohio Canal National Historical Park Commission will be held Saturday, February 28, 1987 at the Town Hall, 20 A Street, Brunswick, Maryland 21716.

The Commission was established by Pub. L. 91–664 to meet and consult with the Secretary of the Interior on general policies and specific matters related to the administration and development of the Chesapeake and Ohio Canal National Historical Park.

The members of the Commission are as follows:

Miss. Carrie Johnson, chairman, Arlington, Virginia
Mr. Carl L. Shipley, Washington, D.C.
Ms. Polly Bloedorn, Bethesda, Maryland
Mr. James B. Coulter, Annapolis, Maryland
Mrs. Constance Lieder, Baltimore, Maryland
Mr. William H. Ansel, Jr., Romney, West Virginia
Mr. Silas Starry, Shepherdstown, West Virginia
Mr. John D. Millar, Cumberland, Maryland
Mr. Howard Buchanan, Cumberland, Maryland
Mr. Rockwood H. Foster, Washington, D.C.
Mr. Barry Passett, Washington, D.C.
Ms. Barbara Yeaman, Brookmont, Maryland
Ms. Joan LaRock, Lovettsville, Virginia
Ms. Elise Heinz, Arlington, Virginia
Ms. Marjorie Stanley, Silver Spring, Maryland
Mrs. Minny Pohlmann, Dickerson, Maryland
Dr. James H. Gilford, Frederick, Maryland
Mr. R. Lee Downey, Williamsport, Maryland
Mr. Edward K. Miller, Hagerstown, Maryland.

Matters to be discussed at this meeting include:

1. Old and new business
2. Superintendent's report
3. Committee reports
   Plans and Projects Committee
   Recreation Policies and Issues Committee
   Resource Protection Committee
4. Public comments.

The meeting will be open to the public. Any member of the public may file with the Commission written

statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contract Richard L. Stanton, Superintendent, C&O Canal National Historical Park, P.O. Box 4, Sharpsburg, Maryland 21782.

Minutes of the meeting will be available for public inspection six (6) weeks after the meeting at Park Headquarters, Sharpsburg, Maryland.

Dated: January 20, 1987.

Robert Stanton,

Acting Regional Director, National Capital Region.

[FR Doc. 87-1709 Filed 1-23-87; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-12 (Sub-111X)]

Southern Pacific Transportation Co.; Exemption for Abandonment in Los Angeles County, CA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the prior approval requirements of 49 U.S.C. 10903, *et seq.*, the abandonment by Southern Pacific Transportation Company of a 1.823-mile line of railroad, known as the San Pedro Branch, between M.P. 481.914 and M.P. 483.737, at or near Naud Jct., in Los Angeles County, CA, subject to standard employee protective conditions.

DATE: This exemption is effective on February 25, 1987. Petitions to stay must be filed by February 5, 1987, and petitions for reconsideration must be filed by February 16, 1987.

ADDRESSES: Send pleadings referring to Docket No. AB-12 (Sub-No. 111X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representatives: Thormund A. Miller, Gary A. Laakso, Southern Pacific Building, One Market Plaza, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: January 14, 1987.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley. Commissioner Lamboley commented with a separate expression.

Noreta R. McGee,

Secretary.

[FR Doc. 87-1638 Filed 1-23-87; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 86-73]

Frank T.W. Chin, M.D.; Denial of Application for Registration

On August 29, 1986, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Frank T.W. Chin, M.D., Respondent, of P.O. Box 1842, West Monroe, Louisiana. The Order to Show Cause proposed to deny Respondent's application for registration, executed on June 5, 1986, on the grounds that: (1) Respondent is not authorized to handle controlled substances in the state in which he seeks registration, (2) Respondent was convicted of twelve felony violations relating to controlled substances, and (3) Respondent falsified his DEA application for registration.

Respondent requested a hearing on the issues raised in the Order to Show, Cause. Subsequent to Respondent's request for a hearing, Government counsel filed a motion of summary disposition on the ground that Respondent is not authorized to handle controlled substances in the state in which he seeks to conduct his practice. Respondent answered the motion for summary disposition by claiming that he did not seek registration with DEA to handle controlled substances in Louisiana, the state listed on his application; instead, he claimed he was seeking registration with DEA to handle controlled substances in the Commonwealth of Virginia. In response, Government counsel alleged that: (1) Respondent's application only referred to Louisiana, and nowhere mentioned that Respondent sought registration in Virginia, and (2) Respondent was not authorized to handle controlled substances in the Commonwealth of Virginia. Respondent later submitted a letter admitting that he was not licensed to practice medicine in the Commonwealth of Virginia. At that point, Respondent also waived his opportunity for a hearing in the matter. In his opinion and recommended ruling, the Administrative Law Judge recommended that Respondent's application for registration be denied. Since Respondent has waived his opportunity for a hearing in this matter, the Administrator enters this final order based upon the entire record as it now appears. 21 CFR 1301.54(d) and 21 CFR 1301.54(e).

After reviewing the administrative record and investigative file, the Administrator finds that Respondent initially sought registration with DEA to handle controlled substances in Louisiana, and later claimed he was interested in handling controlled substances in Virginia. On October 30, 1985, Respondent's license to practice medicine was revoked in the State of Louisiana. Consequently, he is no longer authorized to handle controlled substances in that state. In addition, on October 21, 1986, the Virginia Board of Medicine revoked Respondent's license to practice medicine in that state.

Consequently, Respondent is no longer authorized to handle controlled substances in the Commonwealth of Virginia. Thus, he is not authorized to handle controlled substances in either state in which he seeks registration.

The Drug Enforcement Administration does not have statutory authority under the Controlled Substances Act to register an applicant to handle controlled substances if the applicant is without authority to handle controlled substances in the state in which he seeks DEA registration. See *Emerson Emory, M.D.*, Docket No. 85-46, 51 FR 9543 (1986); *Avner Kauffman, M.D.*, Docket No. 85-8, 50 FR 34208 (1985); *Agostino Carlucci, M.D.*, Docket No. 82-20, 49 FR 33184 (1984). Since, in this matter, Respondent is not authorized to handle controlled substances in the states he seeks registration with DEA, the Administrator cannot issue him a DEA registration.

Also, when Responent filed his application for registration as a practitioner with DEA, he answered "not applicable" to Question 3(a) which asks the applicant whether he is currently authorized to prescribe, distribute, dispense, conduct research, or otherwise handle controlled substances in the schedules for which he is applying, under the laws of the state or jurisdiction in which he is operating or proposes to operate. Since Respondent sought registration as a practitioner in the State of Louisiana, the answer to Question 3(a) was certainly applicable to him. In addition, Respondent knew, or should have known, that he did not possess the

authority to handle controlled substances in that state at the time he executed his application for registration. By failing to notify DEA that he was not authorized to handle controlled substances, Respondent intentionally omitted material information from his application for registration. The Administrator finds that Respondent's intentional omission of material information constitutes another ground for the denial of his application for registration. 21 U.S.C. 824(a)(1).

Further, the Administrator finds that on October 28, 1985, in the United States District Court for the Western District of Louisiana, Respondent was convicted, after a trial by jury, of twelve counts of knowing, intentional and unlawful distribution of controlled substances, in violation of 21 U.S.C. 841(a)(1) and 18 U.S.C. 2, all of which constitute felony convictions relating to controlled substances. Such convictions are additional grounds for the denial of Respondent's application for registration. 21 U.S.C. 823(f)(3)(and 21 U.S.C. 824(a)(2).

The Administrator concludes that, based upon Respondent's lack of state authorization to handle controlled substances, his application for registration must be denied. Respondent's falsification of his application for registration and felony convictions relating to controlled substances constitute further grounds for that denial. Having concluded that, under the facts and circumstances presented in this matter, Respondent's application for registration must be denied, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), orders that the DEA application for registration, executed by Frank T.W. Chin, M.D. on June 5, 1986, be, and it hereby is, denied.

This order is effective January 26, 1987.

John C. Lawn,

Administrator.

Dated: January 21, 1987.

[FR Doc. 87-1642 Filed 1-23-87; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 86-62]

David J. Hacket, D.O.; Revocation of Registration

On July 31, 1986, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to David J. Hacket, D.O. (Respondent), of 2018 Union Boulevard, Allentown, Pennsylvania. The Order to Show Cause sought to revoke Respondent's DEA Certificate of Registration and to deny any pending applications for renewal of that registration as a practitioner under 21 U.S.C. 823(f). The statutory bases for the issuance of the Order to Show Cause are: (1) On December 24, 1985, in the Pennsylvania Court of Common Pleas for Lehigh County, Respondent was convicted, after entering pleas of guilty, to six counts of administering or prescribing Desoxyn, a Schedule II controlled substance, not in good faith in the course of his professional practice, not within the scope of the patient relationship, or not in accordance with treatment principles accepted by a responsible segment of the medical profession, in violation of Pennsylvania Act 64, section 13a, clause 14, all felony offenses relating to controlled substances; (2) On November 13, 1985, the Pennsylvania State Board of Osteopathic Examiners suspended Respondent's license to practice medicine in the State of Pennsylvania, thus terminating his authority to handle controlled substances in that state; and (3) That Respondent's continued registration is inconsistent with the public interest, as evidenced by, but not limited to, the fact that his dispensing and prescribing records for 1984 indicate that he dispensed or prescribed excessive amounts of controlled substances, to wit: Desoxyn, Preludin, Biphetamine and Valium.

Respondent, through counsel, requested a hearing on the issues raised in the Order to Show Cause. Subsequent to Respondent's request for a hearing, Government counsel filed a motion for summary disposition based upon Respondent's lack of authority to handle controlled substances in the state in which he holds his DEA Certificate of Registration. Respondent was given until September 22, 1986 to file an opposition to the Government's motion. Respondent did not file any response or opposition to the Government's motion.

In his Opinion and Recommended Ruling, the Administrative Law Judge recommended that Respondent's DEA Certificate of Registration be revoked and that any pending applications for renewal be denied, based upon his lack of state authorization to handle controlled substances.

The Administrator of the Drug Enforcement Administration finds that on November 13, 1985, the Pennsylvania State Board of Osteopathic Examiners suspended Respondent's license to practice medicine in the State of Pennsylvania. Based upon the suspension of Respondent's medical license in Pennsylvania, Respondent is no longer authorized to handle controlled substances in that state.

The Administrator has consistently held that when a DEA registrant is not authorized to handle controlled substances in the state in which he practices, DEA is without lawful authority to maintain his registration. See *Emerson Emory, M.D.*, Docket No. 85-46, 51 FR 9543 (1986); *Avner Kauffman, M.D.*, Docket No. 85-8, 50 FR 34208 (1985); and *Kenneth K. Birchard, M.D.*, 48 FR 33778 (1983); and *Thomas E. Woodson, D.O.*, Docket No. 81-4, 47 FR 1353 (1982).

In cases, such as this, where a Respondent is not authorized to handle controlled substances in the state in which he conducts his practice, a motion for summary disposition should be granted. It is well settled that when no question of fact exists, or when the material facts are agreed, there is no need to conduct an administrative hearing or proceeding. See *United States* v. *Consolidated Mines and Smelting Co., Ltd.*, 445 F.2d 432, 453 (9th Cir. 1971).

In this instance, since Respondent is not authorized to handle controlled substances in the State of Pennsylvania, the Administrator cannot maintain his DEA Certificate of Registration in that state, and must deny any pending applications for renewal of that registration. Since Respondent did not dispute the fact that he is not authorized to handle controlled substances in the State of Pennsylvania, there is no need to conduct an administrative hearing in this matter. Therefore, the Administrator fully agrees with the Administrative Law Judge's Opinion and Recommended Ruling in determining that Respondent's current DEA Certificate of Registration must be revoked and that any pending applications for renewal of his registration must be denied.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824, and 28 CFR 0.100(b), orders that DEA Certificate of Registration, AH2344973, previously issued to David J. Hacket, D.O., be, and it hereby is, revoked. It is further ordered that any pending applications for renewal, executed by Respondent, be, and they hereby are, denied.

This order is effective January 26, 1987.

Dated: January 21, 1987.

John C. Lawn,

Administrator.

[FR Doc. 87-1643 Filed 1-23-87; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Agency Information Collection Activities Under OMB Review

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Comments on this information collection must be submitted on or before February 25, 1987.

ADDRESSES: Send comments to Ms. Ingrid Foreman, Management Assistant, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 (202) 786–0233 and Ms. Judy Egan, Office of Management and Budget, New Executive Office Building, 726 jackson Place, NW., Room 3208, Washington, DC 20503 (202) 395–6880.

FOR FURTHER INFORMATION CONTACT: Ms. Ingrid Foreman, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 (202) 786–0233 from whom copies of forms and supporting documents are available.

SUPPLEMENTARY INFORMATION: All of the entries are grouped into new forms, revisions, or extensions. Each entry is issued by NEH and contains the following information: (1) the title of the form; (2) the agency form number, if applicable; (3) how often the form must be filled out; (4) who will be required or asked to report; (5) what form will be used for; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to fill out the form. None of these entries are subject to 44 U.S.C. 3504(h).

Category Revision

Title: Process of Application, Evaluation, Award, and Report of NEH Travel to Collections Fellowships.

Form Number: 3136–0065.

Frequency of Collection: Collections occur twice yearly, according to individual program application deadlines.

Respondents: Academic scholars, teachers and independent scholars.

Use: Application, evaluation, and award process for individuals in the Travel to Collections programs.

Estimated Number of Respondents: 1,000.

Estimated Hours for Respondents to Provide Information: 6,000.

Susan Metts,

Assistant Chairman for Administration.

[FR Doc. 87–1674 Filed 1–23–87; 8:45 am]

BILLING CODE 7536–01–M

OFFICE OF PERSONNEL MANAGEMENT

Notice of Proposed Extension of Standard Forms 171 and 171–A

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the "Paperwork Reduction Act of 1980" (44 U.S.C. chapter 35), this notice announces a proposed extension of two forms that collect information from the public. The forms have been submitted to OMB for clearance. Standard Form 171 (Application for Federal Employment) and Standard Form 171–A (Continuation Sheet) comprise the major application forms used by applicants for Federal employment. OPM is responsible for open competitive examinations and the rating of applicants for admission to the competitive service in accordance with 5 U.S.C. 3302; and, these forms are used for these purposes. For copies of the proposal, call Joseph P. Reid, Acting Agency Clearance Officer, on (202) 632–7720.

DATE: Comments on this proposal should be received on or before February 5, 1987.

ADDRESSES: Send or deliver comments to—

Joseph P. Reid, Acting Agency Clearance Officer, U.S. Office of Personnel Management, Rm. 6410, 1900 E Street, NW., Washington, DC 20415, and

Timothy J. Sprehe, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503

FOR FURTHER INFORMATION CONTACT: Joseph P. Reid, (202) 632–7720.

Office of Personnel Management.

James E. Colvard,

Deputy Director.

[FR Doc. 87–1671 Filed 1–23–87; 8:45 am]

BILLING CODE 6325–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Advisory Committee for Trade Negotiations; Notice of Meeting and Determination of Closing of Meeting

The meeting of the Advisory Committee for Trade Negotiations (the Advisory Committee) to be held Friday, February 13, 1987, from 1:30 p.m. to 4:30 p.m. in Washington, D.C., will include the development, review and discussion of current issues which influence the trade policy of the United States. Pursuant to Section 2155(f)(2) of Title 19 of the United States Code, I have determined that this meeting will be concerned with matters the disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions.

More detailed information can be obtained by contacting Barbara W. North, Director, Office of Private Sector Liaison, Office of the United States Trade Representative, Executive Office of the President, Washington, DC 20506.

Clayton Yeutter,

United States Trade Representative.

[FR Doc. 87–1708 Filed 1–23–87; 8:45 am]

BILLING CODE 3190–01–M

POSTAL SERVICE

Privacy Act of 1974; System of Records

AGENCY: Postal Service.

ACTION: Final notice of records system changes.

SUMMARY: The purpose of this document is to publish final notice of the Postal Service's addition of two routine uses to system USPS 050.020, Finance Records—Payroll System.

DATE: January 26, 1987.

FOR FURTHER INFORMATION CONTACT: Betty Sheriff, Records Office, (202) 268–5158.

SUPPLEMENTARY INFORMATION: The Postal Service plans to participate in computer matching activities involving the discretionary disclosure of limited data from system USPS 050.020, Finance Records—Payroll System. The below described matches for which two new routine uses are being added will be conducted in accordance with the Office of Management and Budget's Revised Supplemental Guidelines for Conducting Matching Programs (47 FR 21656, May 19, 1982).

Routine use No. 32 will permit the Postal Service to disclose limited information about its current and former

employees to agencies charged with the responsibility of establishing, enforcing, and administering child support obligations, seeking enforcement of child support orders; and collecting child support owed to public assistance programs as a result of benefits paid to dependents. Disclosure of employee data will be limited to that necessary to identify postal employees who are absent parents owing child support obligations; for example, social security numbers may be matched against the requesting agency's tape of absent parents. Upon completion of the comparison process, disclosure of data on matched employees/absent parents will be limited to that necessary to permit the requesting agency to enforce or seek to enforce the obligations of these employees identified.

The Postal Service will also assist the Department of Defense in its efforts to identify retired military postal employees whose dual compensation exceeds that permitted by law and to take administrative action to adjust pay or collect overpayments. This action is in support to the Dual Compensation Act, Pub. L. No. 88–448, section 201, 78 Stat. 484 (1964) (codified as amended at 5 U.S.C. 5532 (1982)) which requires certain reductions in the retired pay of former members of the military who hold civilian position in the Government. As permitted by routine use No. 33, disclosure will be limited to that data necessary to accomplish the stated pupose of the matching program.

Advance notice of the proposed adoption of these routine uses and final notice of editorial revisions to routine use Nos. 26 and 28 were published on November 13, 1986 at 51 FR 41181. No comments were received in response to the advance notice. System USPS 050.020 last appeared on August 13, 1986, in 51 FR 29028.

Accordingly, the Postal Service is adding two new routine uses to system USPS 050.020, Finance Records—Payroll System, as follows:

USPS 050.020

SYSTEM NAME:

Finance Records—Payroll System, 050.020.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

32. Disclosure of information about current or former postal employees may be made to requesting Federal agencies or non-Federal entities under approved computer matching efforts in which either the Postal Service or the requesting entity acts as the matching agency, but limited to only those data elements considered relevant to identifying those employees who are absent parents owing child support obligations and to collecting debts owned as a result thereof.

33. Disclosure of information about current or former postal employees may be made on a semi-annual basis to the Department of Defense (DOD) under approved computer matching efforts in which either the Postal Service or DOD acts as the matching agency, but limited to only those data elements considered relevant to idenfitying retired military employees who are subject to restrictions under the Dual Compensation Act as amended (5 U.S.C. 5532), and for taking subsequent actions to adjust military retired pay or collect debts and overpayments, as appropriate.

* * * * *

A complete statement of system USPS 050.020, as modified by this notice, appears below.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

USPS 050.020

SYSTEM NAME:

Finance Records—Payroll System.

SYSTEM LOCATION:

Payroll system records are located and maintained in all Departments, facilities and certain contractor sites of the Postal Service. However, Postal Data Centers are the main locations for payroll information. Also, certain information from these records may be stored at emergency records centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former USPS employees, postmaster relief/replacement employees, and certain former spouses of current and former postal employees who qualify for Federal Employees Health Benefits coverage under Pub. L. 96–615.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain general payroll information including retirement deduction, family compensations, benefit deductions, accounts receivable, union dues, leave data, tax withholding allowances, FICA taxes, salary, name, social security number, payments to financial organizations, dates of appointment or status changes, designation codes, position titles, occupation code, addresses, records of attendance, and other relevant payroll information. Also includes automated Form 50 records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 1003.5 U.S.C. 8339

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—

1. Information within the system is for handling all necessary payroll functions and for use by employee supervisors for the performance of the managerial duties.

2. To provide information to USPS management and executive personnel for use in selection decisions and evaluation of training effectiveness. These records are examined by the Selection Committee and Regional Postmasters General.

3. To compile various lists and mailing list, i.e., Postal Leader, Women's Programs, Newsletter, etc.

4. To support USPS Personnel Programs such as Executive Leadership, Non-Bargaining Positions Evaluations of Probationary Employees, Merit Evaluation, Membership and Identification Listings, Emergency Locator Listings, Mailing Lists, Women's Programs, and to generate retirement eligibility information and analysis of employees in various ranges.

Use—

1. Retirement Deduction—To transmit to the Office of Personnel Management a roster of all USPS employees under Title 5 U.S.C. 8334, along with a check.

2. Tax Information—To disclose to Federal, State and local government agencies having taxing authority, pertinent records, relating to individual employees, including name, home address, social security number, wages and taxes withheld for other jurisdiction.

3. Unemployment Compensation Data—To reply to State Unemployment Offices at the request of separated USPS employees.

4. Employee Address File—For W–2 tax mailings and Postal mailing such as Postal Life, Postal Leaders, etc.

5. Salary payments and allotments to financial organizations—To provide pertinent information to organizations receiving salary payments or allotments as elected by the employee.

6. FICA Deductions—The Social Security Act requires that FICA deductions be made for those employees not eligible to participate in the Civil Service Retirement System (casuals). In addition, the Tax Equity and Fiscal Responsibility Act of 1982 requires that

contributions to the Medicare program be deducted from all employees' earnings. (These statutes do not apply to employee in the Trust Territories who are not U.S. citizens.) Accordingly, records of earnings (e., W–2) information) must be disclosed to the Social Security Administration in order that it may account for funds received and determine individual's eligibility for benefits. Information disclosed includes name, address, SSN, wages paid subject to withholding, Federal, state, and local income tax withheld, total FICA wages paid and FICA tax withheld, occupational tax, life insurance premium and other information as reported on an individual's W–2 form.

7. Determine eligibility for coverage and payments of benefits under the Civil Service Retirement System, the Federal Employees Group Life Insurance Program and the Federal Employees Health Benefits Program and transfer related records as appropriate.

8. Determine the amount of benefit due under the Civil Service Retirement System, the Federal Employees Group Life Insurance Program and the Federal Employees Health Benefits program and authorizing payment of that amount and transfer related records as appropriate.

9. Transfer to Office of Workers Compensation Program, Veterans Administration Pension Benefits Program, Social Security Old Ages Survivors and Disability Insurance and Medicare Programs, military retired pay programs, and Federal Civilian employee retirement systems other than the Civil Service Retirement System, when requested by that program or system or by the individual covered by this system for use in determining an individual's claim for benefits under such system.

10. Transfer earnings information under the Civil Service Retirement System to the Internal Revenue Service as requested by the Internal Revenue Code of 1954, as amended.

11. Transfer information necessary to support a claim for life insurance benefits under the Federal Employees' Group Life Insurance, 4 East 24th Street, New York, NY 10010.

12. Transfer information necessary to support a claim for health insurance benefits under the Federal Employees' Health Benefits Program in a health insurance carrier or plan participating in the program.

13. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature to the appropriate agency whether Federal, State, or local charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

14. To request or provide information from or to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, such as licenses. If necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract or the issuance of a license, grant, or other benefits.

15. As a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies, may also be utilized to respond to general requests for statistical information (without personal identification of Individuals) under the Freedom of Information Act or to locate specific individual for person research or the personnel management functions.

16. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

17. Certain information pertaining to Postal Supervisors may be transferred to the National Association of Postal Supervisors.

18. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

19. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

20. Pursuant to the National Labor Relation Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

21. Inactive records may be transferred to a Federal Records Center prior to destruction.

22. To provide to the Office of Personnel Management (OPM) approximately 19 data elements (including SSAN, DOB, service computation date, retirement system, and FEGLI status) for use by OPM's Compensation Group collected are not for the purpose of making determinations about specific individuals but are used only as a means of ensuring the integrity of the active employee/annuitant data systems and for analyzing and statistically projecting Federal retirement and insurance system costs. The same data submission will be used to produce summary statistics for reports of Federal employment.

23. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Equal Employment Opportunity Commision upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 29 CFR 1613, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

24. Records in this system are subject to review by an independent certified public accountant during an official audit of Postal Service finances.

25. May be disclosed to a Federal or State agency providing parent locator services or to other authorized persons as defined by Pub. L. 93–647

26. Disclosure of information about current or former postal employees may be made to requesting states under approved computer matching efforts in which either the Postal Service or the requesting State acts as the matching agency, but limited to only those data elements considered relevant to making a determination of employee participation in and eligibility under unemployment insurance programs administered by the States (and by those States to local governments); to improve program integrity; and to collect debts and overpayments owed to those governments and their components.

27. To union-sponsored insurance carriers for the purposes of determining eligibility for coverage and payments of benefits under union-sponsored non-Federal insurance plans and transferring related records as a appropriate.

28. Disclosure of information about current or former postal employees may be made to requesting Federal agencies or non-Federal entities under approved computer matching efforts in which either the Postal Service or the requesting entity acts as the matching agency, but limited to only those data elements considered relevant to making a determination of employee participation in and eligibility under particular benefit programs administered by those agencies or

entities or by the Postal Service; to improve program integrity; and to collect debts and overpayments owed under those programs.

29. (Temp.) To provide the Department of Housing and Urban Development the names, social security account numbers and home addresses of postal employees for the purpose of notifying those individuals of their indebtedness to the United States under programs administered by the Secretary of Housing and Urban Development and for taking subsequent actions to collect those debts.

Note.—This routine use will be in effect for a period of five years ending September 24, 1989.

30. To provide to the Department of Defense (DOD) upon request, on a semiannual basis, the names, social security account numbers and home addresses of current postal employees for the purposes of identifying those employees who are indebted to the United States under programs administered by the Secretary, DOD, and for taking subsequent actions to collect those debts.

31. To provide to the Department of Defense (DOD), upon request, on an annual basis, the names, social security account numbers, and salaries of current postal employees for the purposes of updating DOD's listings of Ready Reservists and reporting reserve status information to the Postal Service and the Congress.

32. Disclosure of information about current or former postal employees may be made to requesting Federal agencies or non-Federal entities under approved computer matching efforts in which either the Postal Service or the requesting entity acts as the matching agency, but limited to only those data elements considered relevant to identifying those employees who are absent parents owing child support obligations and to collecting debts owed as a result thereof.

33. Disclosure of information about current or former postal employees may be made on a semi-annual basis to the Department of Defense (DOD) under approved computer matching efforts in which either the Postal Service or DOD acts as the matching agency, but limited to only those data elements considered relevant to identifying retired military employees who are subject to restrictions under the Dual Compensation Act as amended (5 U.S.C. 5532), and for taking subsequent actions to reduce military retired pay or collect debts and overpayments, as appropriate.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEMS:

STORAGE:

Preprinted forms, magnetic tape, microforms, punched cards, computer reports and card forms.

RETRIEVABILITY:

These records are organized by location, name and social security number.

SAFEGUARDS:

Records are contained in locked filing cabinets; are also protected by computer passwords and tape library physical security.

RETENTION AND DISPOSAL:

a. Leave Application Files (Absence Control) and Unauthorized Overtime—Destroy when 2 years old.

b. Time and Attendance Records (Other than payroll) and local payroll records—Destroy when 3 years old.

c. PDC records retention—contact PDC Payroll Office or Records Office.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Department of the Controller and APMG, Employee Relations Departments at Headquarters.

NOTIFICATION PROCEDURE:

Request for information on this system of records should be made to the head of the facility where employed giving full name and social security number. Headquarters employees should submit requests to the System Manager.

RECORD ACCESS PROCEDURE:

See NOTIFICATION above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION PROCEDURE above.

RECORD SOURCE CATEGORIES:

Information is furnished by employees, supervisors and the Postal Source Data System.

[FR Doc. 87-1641 Filed 1-23-87; 8:45 am]
BILLING CODE 7710-12-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 22-16295]

Application and Opportunity for Hearing; The LTV Corp.

January 16, 1987.

Notice is hereby given that The LTV Corporation ("Applicant") has filed an application pursuant to clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 ("Act") for a finding by the Securities and Exchange Commission ("Commission") that the trusteeship of The Connecticut National Bank ("CNB") under four indentures of the Applicant, all of which were heretofore qualified under the Act, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify CNB from acting as trustee under any of such indentures.

Section 310(b) of the Act provides, in pertinent part, that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest, it shall, within 90 days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such section provides, in effect, that with certain exceptions, a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture of the same obligor. However, under clause (ii) of said subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of the obligor are outstanding if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing, that trusteeship under such indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee under any of such indentures.

The Applicant alleges that:

1. The Applicant has outstanding its 7½% Subordinated Debentures Due 1993 and 1994 ("7½% Debentures") issued under an indenture dated as of May 15, 1969 ("1969 Indenture"), between the Applicant, as successor by merger to Lykes Corporation (formerly Lykes-Youngstown Corporation, hereinafter "Lykes") and Morgan Guaranty Trust Company of New York ("Morgan"), as successor trustee to Marine Midland Bank (formerly Marine Midland Grace Trust Company of New York, hereinafter "Marine Midland"), as Trustee, which was heretofore qualified under the Act. The 7½% Debentures were registered under the Securities Act of 1933 ("1933 Act").

2. The Applicant has outstanding 1970 7½% Subordinated Debentures Due June 1, 1993 and June 1, 1994 ("1970 7½% Debentures") issued under an indenture dated as of July 15, 1970 ("1970 Indenture"), between the Applicant, as successor by merger to Lykes, and Morgan, as successor trustee to Marine

Midland, as Trustee, which was heretofore qualified under the Act The 1970 7½% Debentures were registered under the 1933 Act.

3. The Applicant has outstanding 11% Subordinated Debentures Due 2000 ("11% Debentures") issued under an indenture dated as of December 15, 1974 ("1974 Indenture"), between the Applicant, as successor by merger to Lykes, and Morgan, as successor trustee to Chemical Bank, as Trustee, which was heretofore qualified under the Act. The 11% Debentures were registered under the 1933 Act.

4. The Applicant has outstanding Subordinated Exchangeable Variable Rate Notes Due August 15, 1995 ("Variable Rate Notes") issued under an indenture dated as of August 15, 1984 ("1984 Indenture"), between the Applicant and Manufacturers Hanover Trust Company, as Trustee ("MHTC"), which was heretofore qualified under the Act. The Variable Rate Notes were registered under the 1933 Act.

5. On June 13, 1986, CNB was appointed as successor trustee to Morgan under the 1969 Indenture, the 1970 Indenture and the 1974 Indenture and Applicant promptly thereunder filed an application under section 310(b)(1)(ii) of the Act in connection with the successor trusteeship of CNB under said three indentures.

6. On November 28, 1986, CNB was appointed as successor trustee to MHTC under the 1984 Indenture, subject to the approval of the Bankruptcy Court for the Southern District of New York.

7. The Applicant is in default under the 1969 Indenture, the 1970 Indenture, the 1974 Indenture and the 1984 Indenture (collectively, "Indentures") as a result of the filing by the Applicant on July 17, 1986, of a petition for reorganization under Chapter 11 of the Bankruptcy Code and the Applicant's failure to make any payments due on the 7½% Debentures, the 1970 7½% Debentures, the 11% Debentures and the Variable Rate Notes (collectively, "Securities") after such date.

8. The Applicant's obligations under the Indentures and the Securities issued thereunder are wholly unsecured and rank *pari passu inter se*.

9. In the opinion of the Applicant, the provisions of the Indentures are not so likely to involve a material conflict of interest so as to make it necessary in the public interest or for the protection of any holder of any of the Securities issued under the Indentures to disqualify CNB from acting as successor trustee under the 1984 Indenture.

The Applicant has waived notice of hearing, any right to a hearing on the issues raised by the application, and all rights to specify procedures under the Rules of Practice of the Commission with respect to its application.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application, File No. 22–16295, which is a public document on file in the offices of the Commission at the Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549.

Notice Is Further Given that any interested person may, not later than February 8, 1987, request in writing that a hearing be held on such matter stating the nature of his interest, the reasons for such request and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission orders a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and for the protection of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87–1649 Filed 1–23–87; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–15545; 812–6475]

IDS Bond Fund, Inc., et al.; Notice of Application

January 16, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("Act").

Applicants: IDS Bond Fund, Inc., IDS California Tax-Exempt Trust, IDS Cash Management Fund, Inc., IDS Discovery Fund, Inc., IDS Equity Plus Fund, Inc., IDS Extra Income Fund, Inc., IDS Federal Income Fund, Inc., IDS Growth Fund, Inc., IDS High Yield Tax-Exempt Fund, Inc., IDS International Fund, Inc., IDS Managed Retirement Fund, Inc., IDS Mutual, Inc., IDS New Dimensions Fund, Inc., IDS Precious Metals Fund, Inc., IDS Progressive Fund, Inc., IDS Selective Fund, Inc., IDS Special Tax-Exempt Series Trust, IDS Selective Fund, Inc., IDS Special Tax-Exempt Series Trust, IDS Stock Fund, Inc., IDS Strategy Fund, Inc., IDS Tax-Exempt Bond Fund, Inc., IDS Tax-Free Money Fund, Inc. ("Publicly Offered Funds"); IDS Life Capital Resource Fund, Inc., IDS Life Managed Fund, Inc., IDS Life Moneyshare Fund, Inc., IDS Life Special Income Fund, Inc. ("Life Funds"); IDS Life Series Fund ("Series Fund"); IDS Life Insurance Company ("IDS Life"), IDS Financial Services Inc. ("IDS"); and all future investment companies for which IDS, IDS Life or any affiliated company serves as dividend disbursing agent.

Relevant Sections of Act: Exemption requested, pursuant to section 6(c) of the Act, from section 19(a) of the Act and Rule 19a–1 thereunder.

SUMMARY OF APPLICATION: Applicants seek an exemption to permit them to identify the source of dividend and capital gain distributions in a quarterly statement of account instead of in a separate written statement of account mailed at the time of each payment.

FILING DATE: The application was filed on August 20, 1986 and amended on December 21, 1986.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on February 10, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549; Publicly Offered Funds and Life Funds at 1000 Roanoke Building, Minneapolis, Minnesota 55474; IDS Life and IDS Series Funds at 80 South Eighth Street, Minneapolis, Minnesota 55474.

FOR FURTHER INFORMATION CONTACT: George Martinez, Attorney (202) 272–3024 or H. R. Hallock, Jr., Special Counsel (202) 272–3030, Office of Investment Company Regulation.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from either the Commission's Public Reference Branch in person or the Commission's

commercial copier (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations: The Publicly Offered Funds, Life Funds and Series Funds are all open-end management investment companies. IDS and IDS Life are registered as broker-dealers under the Securities Exchange Act of 1934 and as investment advisers under the Investment Advisers Act of 1940. IDS is also registered as a transfer agent under the Securities Exchange Act of 1934.

Section 19(a) of the Act and Rule 19a–1 thereunder that require a written statement accompany any distribution made from any source other than accumulated undistributed net income. This statement must disclose the source of the distribution. Applicants propose to include a description of the source or sources of payments in a quarterly consolidated statement in lieu of providing a separate written statement as required by section 19(a) of the Act and Rule 19a–1 thereunder ("Section 19 Notice"). Applicants state that reinvested dividend and capital gain distributions are presently confirmed by means of quarterly consolidated statements under section 10b–10 of the Securities Exchange Act of 1934. Quarterly consolidated statements include a complete history of the past quarter and were developed to decrease the number of separate mailings.

Applicants believe that information as to the source of payments will be more meaningful to investors if furnished in the quarterly consolidated statement since clients expect the statement to include all relevant information regarding their accounts. Applicants undertake to provide clients with all the information required by section 19 of the Act and Rule 19a–1 thereunder in the quarterly consolidated statements provided in lieu of the section 19 Notice.

Applicants state that exemptive relief has been requested primarily to permit them to include information on capital gain distributions in the quarterly consolidated statement. However, in the event that any distributions are made from other than net investment income or capital gains as defined in Rule 19a–1 under the Act, Applicants request that the order cover those circumstances as well.

Applicants maintain that a separate mailing at the time the payment is made is unduly costly and burdensome, not necessary in light of disclosure in the quarterly consolidated statement and potentially confusing to investors who expect the quarterly consolidated statement to contain all relevant information. Further, Applicants submit that the relief requested is appropriate in the public interest and consistent with the protection of investors and the purposes and policies of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87–1648 Filed 1–23–87; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–15543; 812–6398]

Prudential-Bache Incomevertible Plus Fund, Inc., et al; Deferred Compensation Plan Application

January 16, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for an Amended Order under the Investment Company Act of 1940 (the "1940 Act").

Applicants: Prudential-Bache IncomeVertible Plus Fund, Inc., and Prudential-Bache Securities Inc. ("Prudential-Bache") (collectively, "Applicants").

Relevant 1940 Act Sections: Exemption requested under section 6(c) from the provisions of section 13(a)(2), 18(f)(1) and 22(f) and (g), and permission for joint transactions under section 17(d) and Rule 17d–1 thereunder.

SUMMARY OF APPLICATION: Applicants seek to amend an existing order permitting implementation of a deferred compensation plan for disinterested directors (investment Company Act Release No. 15224, July 24, 1986) to permit commencement of payments under the plan at a time other than termination of services as a director.

FILING DATE: The application was filed on November 20, 1986.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on February 10, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, One Seaport Plaza, New York, New York 10292.

FOR FURTHER INFORMATION CONTACT: Victor R. Siclari, Staff Attorney (202) 272–2847 or Brion R. Thompson, Special Counsel (202) 272–3016 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier who may be contacted at (800) 231–3282 (in Maryland (301) 258–4300).

Applicants' Representations:

1. Prudential-Bache is a broker-dealer registered under the Securities Exchange Act of 1934 and serves either as administrator, manager, distributor or principal underwriter to several open-end, management investment companies (including Prudential-Bache IncomeVertible Plus Fund, Inc.) which are registered under the 1940 Act (the "Funds"). Each of the Funds currently pays director's fees, plus reimbursement for travel and incidental expenses, ("Director's Fees") to each of its directors who are not interested persons of those Funds within the meaning of section 2(a)(19)(A) of the 1940 Act (the "Disinterested Directors"). Pursuant to an order issued on July 24, 1986 (Investment Company Act Release No. 15224) (the "Previous Order"), existing and future Funds may adopt a deferred director's fee arrangment (the "Agreement") which permits their Disinterested Directors to elect to defer receipt of all or any portion of the Director's Fees that otherwise would become payable for services performed after the date of the election ("Deferred Director's Fees").

2. Under the Agreement, deferred amounts will accrue interest at a daily rate equivalent to the rate for 90-day U.S. Treasury Bills determined each calendar quarter on a prospective basis. The Agreement provides that Deferred Director's Fees, plus accrued interest, are to become payable in cash upon termination of the director's service in that capacity. According to the Agreement, payment of Deferred Director's Fees will be made in a lump sum or in a number of annual installments determind by the Fund in its sole discretion.

3. Applicants seek to amend the Previous Order solely to permit the Disinterested Directors of existing and future Funds to receive Deferred Director's Fees prior to the termination of that director's service as such.

Applicants propose to amend the Agreement ("Amended Agreement") to permit a Disinterested Director to elect, by written notice (the "Notice") to any officer of the existing or future Fund on whose board the Disinterested Director serves, to receive payment of his or her Deferred Director's Fees, in whole or in part, upon the earliest to occur of (1) a specified date (on which the director may still be serving as such), or (2) the termination of the director's service in that capacity. Under the Amended Agreement, a Disinterested Director continuing to serve as a director could elect to receive on the date specified in the Notice part or all of that director's Deferred Director's Fees plus accrued interest. A Disinterested Director whose services as a director have terminated would receive his or her complete entitlement to Deferred Director's Fees, plus accrued interest, after deduction of payments (if any) made pursuant to the Notice.

4. The Amended Agreement would not affect any provision of the Agreement under the Previous Order other than the timing of receipt of Deferred Director's Fees. All other provisions of the Amended Agreement would be substantially similar to those contained in the Agreement under the Previous Order.

5. The Amended Agreement would confer on the Disinterested Directors the same benefits as the Agreement under the Previous Order. Accordingly, the Amended Agreement would not reflect a change in the purposes underlying an existing or future Fund's decision to make available a Deferred Director's Fee arrangement and a Disinterested Director's election to participate therein.

6. The Amended Agreement would assist a Disinterested Director in: (a) avoiding elimination or loss of social security benefits to which that director may otherwise be entitled, (b) deferring payment of income taxes on Director's Fees, or (c) accomplishing other objectives. Accordingly, the Amended Agreement would enhance an existing or future Fund's ability to attract and retain Disinterested Directors of high calibre.

7. The requested amendment of the Previous Order for exemption under section 6(c) from the provisions of sections 13(a)(2), 18(f)(1), and 22(f) and (g), for the foregoing reasons, is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act. In addition, with respect to the relief requested under section 17(d) and Rule 17d–1 thereunder, the participation of the Funds in the Amended Agreement on the basis proposed would be consistent with the provisions, policies and purposes of the 1940 Act, and would not be different from or less advantageous than that of any other participant.

For the Commission, by the Division of Investment Management, under delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87–1650 Filed 1–23–87; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Cincinnati Stock Exchange, Inc.

January 20, 1987.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following securities:

Adams Express Co., Common Stock, $1.00 Par Value (File No. 7–9561)
Barclays PLC, American Depository Shares (File No. 7–9562)
Commercial Credit Co., Common Stock, $5.00 Par Value (File No. 7–9563)
Commercial Metals Co., Common Stock, $5.00 Par Value (File No. 7–9564)
Equitable Resources Inc., Common Stock, No Par Value (File No. 7–9565)
Fansteel Inc., Common Stock, $2.50 Par Value (File No. 7–9566)
Gottschalk Inc., Common Stock, $.01 Par Value (File No. 7–9567)
Huffy Corp., Common Stock, $1.00 Par Value (File No. 7–9568)
M.A. Hanna Co., $2.125 Convertible Exchangable Preferred, No Par Value (File No. 7–9569)
LTV Corp., Special AA Accumulative Convertible Equity) Voting, $.50 Par Value (File No. 7–9570)
National Westminster Bank PLC, American Depository Shares (File No. 7–9571)
The News Corporation, American Depository Shares (File No. 7–9572)
Northern Steel & Wire Co., Common Stock, $5.00 Par Value (File No. 7–9573)
Petroleum Resources Corporation, Common Stock, $1.00 Par Value (File No. 7–9574)
Questar Corporation, Common Stock, $2.50 Par Value (File No. 7–9575)
Service Resources Corporation, Common Stock, $5.00 Par Value (File No. 7–9576)
Springs Industries Inc., Common Stock, $.50 Par Value (File No. 7–9577)
Standard Motor Inc., Common Stock, $2.00 Par Value (File No. 7–9578)
Texas Air Corporation, American Depository Receipts, 12% Redeemable Cumulative Junior Preferred (File No. 7–9579)
Texas Air Corporation, American Depository Receipts, 6½% Redeemable Cumulative Junior Preferred (File No. 7–9580)
Toro Co., Common Stock, $1.00 Par Value (File No. 7–9581)
Unum Corporation, Common Stock, $.10 Par Value (File No. 7–9582)
Vista Chemical Company, Common Stock, $.01 Par Value (File No. 7–9583)
Wicor Inc., Common Stock, $1.00 Par Value (File No. 7–9584)
Witco Co., Common Stock, $5.00 Par Value (File No. 7–9585)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 10, 1987, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–1646 Filed 1–23–87; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

January 20, 1987.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following securities:

International Technology Corporation Common Stock, $1.00 Par Value (File No. 7–9586)
ConAgra, Inc. Common Stock, $5.00 Par Value (File No. 7–9587)
Reliance Group Holdings, Inc. Common Stock, $.10 Par Value (File No. 7–9588)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 10, 1987, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–1647 Filed 1–23–87; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice CM–8/1041]

Study Group B of the U.S. Organization for the International Telegraph & Telephone Consultative Committee (CCITT); Notice of Meeting

The Department of State announces that Study Group B of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on Tuesday, February 17, 1987 at 9:30 a.m. in Room 856, Federal Communications Commission, 1919 M Street, NW., Washington, D.C. This Study Group deals with CCITT preparations for the 1988 World Administrative Telegraph and Telephone Conference (PC/WATTC).

The purpose of the meeting is:

1. Report on the PC–WATTC meeting in Geneva, December, 1986.
2. Consideration of new contributions to the PC–WATTC.
3. Any other business.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the co-chairman. Admittance of those members will be limited to the seating available.

For further information pertaining to the meeting, please contact Mr. Wendell Harris, Federal Communications Commission; telephone (202) 632–3214 or Mr. Glenn deChabert, Control Data Corporation; telephone (202) 789–6784.

Dated: January 13, 1987

Earl S. Barbely,

Director, Office of Technical Standards and Development, and Chairman, U.S. CCITT National Committee.

[FR Doc. 87–1692 Filed 1–23–87; 8:45 am]

BILLING CODE 4710–10–M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ending January 16, 1987

The following agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 408, 409, 412, and 414. Answers may be filed within 21 days of date of filing.

Docket No. 44619 R–1 & R–50

Parties: Members of International Air Transportation Association.
Date Filed: January 14, 1987.
Subject: TC3 Fares.
Proposed Effective Date: April 1, 1987.

Docket No. 44621

Parties: Members of International Air Transportation Association.
Date Filed: January 15, 1987.
Subject: Currency Adjustment Factors—Lebanon.
Proposed Effective Date: January 26, 1987.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 87–1648 Filed 1–23–87; 8:45 am]

BILLING CODE 4910–62–M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended January 16, 1987

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket No. 44615

Date Filed: January 12, 1987.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: February 9, 1987.
Description: Application of Continental Airlines, Inc., pursuant to Section 401 of the Act and Subpart Q of the Regulations, requests a certificate of public convenience and necessity authorizing Continental to engage in scheduled foreign air transportation of persons, property and mail between the United States and France.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 87–1696 Filed 1–23–87; 8:45 am]

BILLING CODE 4910–62–M

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements; Submittals to OMB on January 20, 1987

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements imposed upon the public which were transmitted by the Department of Transportation on January 20, 1987, to the Office of Management and Budget (OMB) for its approval in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

FOR FURTHER INFORMATION CONTACT: John Chandler, Annette Wilson, or Cordelia Shepherd, Information Requirements Division, M–34, Office of the Secretary of Transportation, 400 Seventh Street SW., Washington, DC 20590, telephone (202) 366–4735, or Gary Waxman or Sam Fairchild, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, DC 20503, (202) 395–7340.

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to the Office of Management and Budget (OMB) for initial, approval, or for renewal under

that Act. OMB reviews and approves agency submittals in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements. OMB approval of an information collection requirement must be renewed at least once every three years.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the "For Further Information Contact" paragraph set forth above. Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the "For Further Information Contact" paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 10 days from the date of publication are needed to prepare them, please notify the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB on January 20, 1987:

DOT No: 2846
OMB No: 2127–0025
Administration: National Highway Traffic Safety Administration
Title: 49 CFR Part 512, Confidential Business Information
Need for Information: To ensure confidential treatment to motor vehicle manufacturers
Proposed Use of Information: This regulation sets forth the procedures to be followed by vehicle and equipment manufacturers, when they are requesting confidential treatment of information they have submitted to the agency
Frequency: On occasion
Burden Estimate: 600 hours
Respondents: Motor vehicle manufacturers
Form(s): None

DOT No: 2847
OMB No: 2120–0075
Administration: Federal Aviation Administration
Title: Airport Security Part 107 of the Federal Aviation Regulations
Need for Information: Airport security programs and screening activities and arrest reports are needed to ensure protection of persons and property in air transportation against acts of criminal violence
Proposed Use of Information: To ensure compliance with FAR–107 and to comply with Congressional reporting requirements
Frequency: Semi-annual/on occasion
Burden Estimate: 24,954 hours
Respondents: Airport Operators
Form(s): FAA Forms 1650–7 and 1650–8

DOT NO: 2848
OMB No: 2132–0540
Administration: Urban Mass Transportation Administration
Title: Title VI as it applies to UMTA Grant Programs
Need for Information: The information collection will enable UMTA to determine grantees' compliance with Title VI.
Proposed Use of Information: DOT/UMTA ensure that beneficiaries are not discriminated against in the distribution of transportation services and related benefits. The civil rights programmatic requirements per the Title VI regulation will be submitted by Transit systems, metroplitan planning organizations, State and local governments, colleges and universities.
Frequency: Every three years.
Burden Estimate: 13,296
Respondents: Transit systems, local planning, organizations, State and local governments, colleges and universities
Form(s): N/A

DOT NO: 2849
OMB No: 2132–0542
Administration: Urban Mass Transportation Administration
Title: Seciton 19 (EEO) as it Applies to UMTA Grant Programs
Need for Information: The purpose is to ensure that minorities and women have equitable access to employment opportunities and that recipients of Federal funds do not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin
Proposed Use of Information: The data will be utilized by the UMTA Office of Civil Rights in monitoring the transit properties' compliance with applicable EEO laws, rules, regulations, and statutes
Frequency: Every three years
Burden Estimate: 5,712
Respondents: State or local governments and business or other for profit organizations
Form(s): None

DOT NO: 2850
OMB No: 2115–0050
Administration: U.S. Coast Guard
Title: Application for Individual Bridge Permit or Request for Authorization to Proceed Under General Bridge Permit
Need for Information: This information collection is needed to evaluate plans and location to construct a bridge or causeway over the navigable waters or the United States
Proposed Use of Information: Coast Guard uses this information to evaluate the effect the structure will have on the reasonable needs of navigation and the human environment. Upon approval, Coast Guard provides the National Oceanic and Atmospheric Administration (NOAA) a copy to make corrections to their navigation charts.
Frequency: On occasion
Burden Estimate: 4,960 hours
Respondents: 140
Form(s): N/A

DOT NO: 2851
OMB No: 2120—0063
By: Federal Aviation Administration
Title: Airport Operating Certificate
Need for Information: The reporting and recordkeeping information is needed by the FAA to insure that airports subject to certification under FAR–139 are operating in a safe manner
Proposed Use of Information: The completion of the application initiates the certification process including airport inspection and documentation of safe airport operations and equipment
Frequency: On occasion and annually
Burden Estimate: 186,350 hours
Respondents: Airport sponsors serving aircarrier's designed for more than 30 passenger seats
Form(s): FAA Forms 5280–1 and 5280–2

DOT NO: 2852
OMB No: 2127–0542
By: National Highway Traffic Safety Administration
Title: 49 CFR Part 543. Petitions for Exemption from the Vehicle Prevention Standard
Need for Information: Manufacturers may petition the Secretary for an exemption from the theft prevention standard
Proposed Use of Information: Manufacturers of passenger automobiles may petition the Secretary for an exemption from the theft prevention standard of a line(s) of vehicles are equipped with an antitheft device, which is standard equipment and is determined by the Secretary to be as effective as the theft prevention standard
Frequency: One-time only
Burden Estimate: 96 hours
Respondents: Businesses
Form(s): None

DOT No: 2854
OMB No: 2125–0512
Administration: Federal Highway Administration

Title: Traffic Operation, Traffic Surveillance and Control
Need for Information: To meet FHWA requirement for States and local agencies to prepare an operational plan for proposed Federal-aid traffic and control.
Proposed Use of Information: To provide FHWA assurance that there are adequate provisions and resources for the acquisition and operational phases of the project.
Frequency: Other non-recurring
Burden Estimate: 4,000
Respondents: State Highway agencies
Form(s): None.

DOT NO: 2855
OMB No: 2130–0006
Administration: Federal Railroad Administration
Title: Railroad Signal Systems Requirements
Need for Information: To assure that signal systems are tested and maintained in safe and suitable condition to provide the safety intended by the Act.
Proposed Use of Information: To determine if a potential safety hazard exists in the signal systems.
Frequency: Recordkeeping and on occasion
Burden Estimate: 456,050 hours
Respondents: Railroads
Form(s): FRA F–6180.14 and FRA F–6180.47

DOT No: 2856
OMB No: 2138–0017
Administration: Research and Special Programs Administration
Title: Passenger Origin and Destination Survey Report
Need for Information: DOT needs a data base which shows the true origin and destination of air travelers.
Proposed Use of Information: The O & D data base is used in administering DOT's international air transportation program, and analyzing anti-trust cases, etc.
Frequency: Quarterly
Burden Estimate: 37,440
Respondents: Large certificated route air carriers
Form(s): RSPA Form 2787

Issued in Washington, D.C. on January 20, 1987.

John E. Turner,
Director of Information Resource Management.

[FR Doc. 87–1699 Filed 1–23–87; 8:45 am]
BILLING CODE 4910–62–M

Application of AVAir, Inc., for Certificate Authority Under Subpart Q

AGENCY: Department of Transportation.

ACTION: Notice of order to show cause. (order 87–1–40) docket 44383.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding AVAir, Inc., fit and awarding it a certificate of public convenience and necessity to engage in interstrate and overseas scheduled air transportation.

DATES: Persons wishing to file objections should do so no later than February 10, 1987.

ADDRESSES: Objections and answers to objections should be filed in Docket 44383 and addressed to the Documentary Services Division (C–55, Room 4107), U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590 and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Lane, Special Authorities Division (P–56, Room 6420), U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590, (202) 366–2341.

Dated: January 20, 1987.

Matthew V. Scocozza
Assistant Secretary for Policy and International Affairs.

[FR Doc. 87–1697 Filed 1–23–87; 8:45 am]
BILLING CODE 4910–62–M

Coast Guard

[CGD 87–003]

Coast Guard Academy Advisory Committee; Charter Renewal

AGENCY: Coast Guard, DOT.

ACTION: Notice of renewal.

SUMMARY: The Secretary of Transportation has approved the renewal of the Charter for the Coast Guard Academy Advisory Committee.

The purpose of this Council is to advise the Secretary of Transportation on the course of instruction at the Academy and to make recommendations as necessary.

FOR FURTHER INFORMATION CONTACT: Captain David A. Sandell, USCG, Dean of Academics/Executive Secretary of the Academy Advisory Committee, U.S. Coast Guard Academy, New London, CT 06032, phone (203) 444–8275.

Dated: January 21, 1987.

T. T. Matteson,
Real Admiral (Lower Half) U.S. Coast Guard, Chief, Office of Boating, Public and Consumer Affairs.

[FR Doc. 87–1681 Filed 1–23–87; 8:45 am]
BILLING CODE 491–014–M

Federal Highway Administration

Supplemental Environmental Impact Statement; Knox County, TN

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a supplemental environmental impact statement will be prepared for a proposed project in Knoxville, Knox County, Tennessee.

FOR FURTHER INFORMATION CONTACT: Mr. Wright B. Aldridge, Jr., Planning and Research Engineer, Federal Highway Administration, Federal Building, U.S. Courthouse, 801 Broadway—Suite A–926, Nashville, Tennessee 37203, telephone (615) 736–7106.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the Tennessee Department of Transportation will prepare a supplemental environmental impact statement (SEIS) and section 4(f) Statement on a proposal to complete the I–275/I–40 Interchange and the replacement of the Western Avenue Viaduct in Knoxville, Tennessee. The proposed project is considered necessary to provide access to the Central Business District (CBD). The replacement of the Western Avenue Viaduct is needed because of its deteriorating condition and its deficiencies in capacity, width, and number of lanes.

Alternatives to be considered include: (1) Taking no action; (2) completing the interchange with an underpass at the Broadway/Henley Street and Summit Hill Drive/Western Avenue intersection; (3) completing the interchange with an at-grade connection at that intersection; (4) completing the interchange with a connection to other streets, such as, Jackson Avenue, Oak Street, and Western Avenue; (5) other alternatives that may arise from public input; and (6) alternatives that avoid use of the historic properties located in the area. The impacts of the project on the Fort Sanders Historic District will be evaluated.

Initial Coordination letters describing the proposed action and soliciting comments will be sent to appropriate federal, state and local agencies. A public hearing will be held. Public notice will be given of the time and place of this hearing. The draft supplemental environmental impact statement (SEIS) will be available for public and agency review and comment. Comments from the initial coordination letters and a

probable public meeting will be considered in determining the scope of the SEIS.

To insure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions concerning the proposed action and the SEIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of Executive Order 12372 regarding State and local clearinghouse review of Federal and federally assisted program and projects apply to this program).

Issued on January 14, 1987.

Wright B. Aldridge, Jr.,

Planning and Research Engineer, Tennessee Division Nashville, Tennessee.

[FR Doc. 87-1597 Filed 1-23-87; 8:45 am]

BILLING CODE 4910-22-M

Federal Railroad Administration

Petition for Exemption or Waiver of Compliance; Port Terminal Railroad Association

In accordance with 49 CFR 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received a request for an exemption from or waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, and the nature of the relief being requested.

Interested parties are invited to participate in this proceeding by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with this proceeding since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning this proceeding should identify the appropriate docket number (Waiver Petition Docket Number RSOR-86-4) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. Communications received before March 12, 1987 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning this proceeding are available for examination during regular business hours (9 a.m.-5 p.m.) in Room 8201, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

The petition for exemption from a requirement of Title 49, Code of Federal Regulations Part 218—Railroad Operating Practices is as follows:

Petitioner's name	Waiver petition docket No.
Port Terminal Railroad Association	RSOR-86-4.

The above named railroad seeks an exemption from § 218.25 as it requires the use of a blue signal display at each end of rolling equipment when workmen are on, under, or between rolling equipment on a main track.

The petitioner indicates an adequacy of carrier rules and procedures that precludes the need for such a requirement. Hence, petitioner feels the request is not contrary to the public interest or safety.

Issued in Washington, DC on January 12, 1987.

J.W. Walsh,

Associate Administrator for Safety.

[FR Doc. 87-1644 Filed 1-23-87; 8:45 am]

BILLING CODE 4910-06-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: January 20, 1987.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Office listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 7313, 1201 Constitution Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0008
Form Number: W-2, W-2c, W-2p, W-2AS, W-2GU, W-2NMI, W-2VI, W-3, W-3c, W-3cPR, W-3PR, W-3SS
Type of Review: Revision
Title: Wage and Tax Statement
Clearance Officer: Garrick Shear, (202) 566-6150, Room 5571, 1111 Constitution Avenue NW., Washington, D.C. 20224
OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Financial Management Service

OMB Number: 1510-0047
Form Number: TFS 2211
Type of Review: Extension
Title: Surety Application Process
Clearance Officer: Douglas C. Lewis, Financial Managment Service, Room 100, 3700 East West Highway, Hyattsville, MD 20782
OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Managment and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Douglas J. Colley,

Departmental Reports Management Office.

[FR Doc. 87-1676 Filed 1-23-87; 8:45 am]

BILLING CODE 4810-25-M

Public information Collection Requirements Submitted to OMB for Review

Dated: January 20, 1987.

The Department of Treasury has made revisions and resubmitted the following public information collection requirements(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub.L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 7313, 1201 Constitution Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0051
Form Number: IRS Forms 990-C
Type of Review: Resubmission
Title: Farmers' Cooperative Association Income Tax Return
Clearance Office: Garrick Shear, (202) 566-6150, Room 5571, 1111 Constitution Avenue, NW., Washington, DC. 20224
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Dale A. Morgan,

Departmental Reports Management Office.

[FR Doc. 87-1677 Filed 1-23-87; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Dated: January 20, 1987.

The Department of Treasury has made revisions and resubmitted the following public information collection requirements(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub.L. 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 7313, 1201 Constitution Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB NUmber: 1545–0020
Form Number: IRS Forms 709
Type of Review: Resubmission
Title: United States Gift (and Generation—Skipping Transfer (Tax Return
Clearance Office: Garrick Shear, (202) 566–6150, Room 5571, 1111 Constitution Avenue, NW., Washington, D.C. 20224
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Douglas J. Colley,

Departmental Reports Management Office.

[FR Doc. 87–1678 Filed 1–23–87; 8:45 am]

BILLING CODE 4810–25–M

Customs Service

[T.D. 87–14]

Approval of James Woods & Co., Inc., To Gauge Imported Petroleum and Petroleum Products

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of approval.

SUMMARY: Pursuant to § 151.43(b), Customs Regulations (19 CFR 151.43(b)), James Woods & Co., Inc., of 116 John Street, New York, New York 10038, has applied to Customs for approval to gauge imported petroleum and petroleum products. It has been determined that James Wood & Co. meets all of the requirements to be a Customs approved public gauger.

Accordingly, the application of James Woods & Co., Inc., to gauge imported petroleum and petroleum products in all Customs districts is approved.

EFFECTIVE DATE: January 14, 1987.

FOR FURTHER INFORMATION CONTACT: Roger J. Crain, Technical Services Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229 (202–566–2446).

Dated: January 14, 1987.

Roger J. Crain,

Chief, Technical Section, Technical Services Division.

[FR Doc. 87–1633 Filed 1–23–87; 8:45 am]

BILLING CODE 4820–02–M

Application for Recordation of Trade Name: "Jobst Institute, Inc."

ACTION: Notice of application for recordation of trade name.

SUMMARY: Application has been filed pursuant to § 133.12, Customs Regulations (19 CFR 133.12), for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "Jobst Institute, Inc." used by the Jobst Institute, Inc., a corporation organized under the laws of the State of Ohio, located at 653 Miami Street, Toledo, Ohio 43694.

The application states that the trade name is used in connection with the developing and marketing of medical soft goods for the treatment of vascular and lymphatic system disorders due to surgery, trauma or disease, such as support stockings and elastic pressure covers for the treatment of burns, manufactured in the United States.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Notice of the action taken on the application for recordation of this trade name will be published in the **Federal Register.**

DATE: Comments must be received on or before March 27, 1987.

ADDRESS: Written comments should be addressed to the Commissioner of Customs, Attention: Entry, Licensing and Restricted Merchandise Branch, 1301 Constitution Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Beatrice E. Moore, Entry, Licensing and Restricted Merchandise Branch, 1301 Constitution Avenue, NW., Washington, DC 20229 (202–566–5765).

Dated: January 16, 1987.

Steven I. Pinter,

Chief, Entry, Licensing and Restricted Merchandise Branch.

[FR Doc. 87–1634 Filed 1–23–87; 8:45 am]

BILLING CODE 4820–02–M

Application for Recordation of Trade Name: "Xomed, Inc."

ACTION: Notice of application for recordation of trade name.

SUMMARY: Application has been filed pursuant to § 133.12, Customs Regulations (19 CFR 133.12), for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "Xomed, Inc." used by the Xomed, Inc., a corporation organized under the laws of the State of Delaware, located at 6743 Southpoint Drive North, Jacksonville, Florida 32216.

The application states that the trade name is used in connection with medical prosthetic supplies and apparatus, such as, surgical instruments, x-ray machine drapes, ear drapes, various types of sheeting and gauze primarily for use in surgical procedures, otology implants, and stapedectomy prostheses, manufactured in the United States.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Notice of the action taken on the application for recordation of this trade name will be published in the **Federal Register.**

DATE: Comments must be received on or before March 27, 1987.

ADDRESS: Written comments should be addressed to the Commissioner of Customs, Attention: Entry, Licensing and Restricted Merchandise Branch, 1301 Constitution Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Beatrice E. Moore, Entry, Licensing and Restricted Merchandise Branch, 1301 Constitution Avenue, NW., Washington, DC 20229 (202–566–5765).

Dated: January 16, 1987.

Steven I. Pinter,

Chief, Entry, Licensing and Restricted Merchandise Branch.

[FR Doc. 87–1635 Filed 1–23–87; 8:45 am]

BILLING CODE 4820–02–M

Internal Revenue Service

[Delegation Order No. 113 (Rev. 11)]

Delegation of Authority; Employee Plans and Exempt Organizations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of Authority.

SUMMARY: In an effort to increase efficiency and effectiveness, as well as cost savings, the Western Region has

realigned from three key districts to one key district in Los Angeles. This new alignment is effective October 1, 1986. For purposes of processing applications and controlling returns for Employee Plans and Exempt Organizations the new alignment will be implemented effective January 1, 1987. The text of the delegation order appears below.

EFFECTIVE DATE: January 12, 1987.

FOR FURTHER INFORMATION CONTACT: Thomas W. Lewald, OP:E:O:D, 1111 Constitution Avenue NW., Room 2237, Washington, DC 20224, Telephone No. (202) 566-9299 (not a toll free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury directive appearing in the Federal Register for Wednesday, November 8, 1978.

Garland A. Carter,

Chief, Employee Plans and Exempt Organizations Determination Branch.

Order No. 113 (Rev. 11)

Effective date 1-12-87

Authority To Issue Exempt Organization Determination Letters

Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 150-37 and the provisions of 26 CFR 1.503(a)-1, authority with respect to issuance of determination letters pertaining to the exempt status of organizations under section 501(a) and related matters is delegated as follows:

1. The District Director of each Employee Plans and the Exempt Organizations key district listed in 4 below is authorized to:

(a) Issue determination letters, except as noted in section 2, below, with respect to exemption from Federal income tax under sections 501 and 521; status under IRC 120, 170(c)(2), 507, 508, 509, 4942(j)(3), 4947, 4948, and 6033 withholding of information from public inspection under IRC 6104(a)(1)(D); imposition of tax under IRC 11, 511 through 514, 527(f), 641, 1381, and Chapters 41 and 42; provided the requests present questions the answers to which are clear from an application of the provisions of the statute, Treasury decisions or regulations, or by a ruling, opinion, or court decision published in the Internal Revenue Bulletin, and

(b) Issue modifications or revocations of rulings or determination letters described above in accordance with currently applicable appeal procedures, and

(c) Determine that any trust described in section 501(c)(17) or 501(c)(18) has engaged in a prohibited transaction and to notify such entity in writing of the revocation of exemption and of the requalification for exemption after the trust establishes that it will not knowingly again engage in a prohibited transaction and that it also satisfies all other requirements under section 501(c)(7) or 501(c)(18), and

(d) Redelegate this authority but not below Exempt Organizations Specialist, Grade GS-12 (other than the originator) and not below Chief, Employee Plans and Exempt Organizations Division with respect to adverse modifications or revocations of such letters.

2. In each region, the Regional Counsel, the Regional Director of Appeals, Chief and Associate Chief, Appeals Office are authorized to issue final determination letters on appeals from proposed adverse determinations and proposed revocations issued by key district offices under this delegation. This authority may not be redelegated.

3. The Assistant Commissioner (Employee Plans and Exempt Organizations), with the concurrence of the Chief Counsel, is authorized to require preissuance review of specific types of final adverse determinations of issues described in IRC 7428(a)(1).

4. In each region, the following Employee Plans and Exempt Organizations key districts are responsible for employee plans and exempt organization matters:

Key Districts	IRS District Covered
	CENTRAL REGION
Cincinnati	Cincinnati, Cleveland, Detroit, Indianapolis, Louisville, and Parkersburg
	MID-ATLANTIC REGION
Baltimore	Baltimore (which includes the District of Columbia and the Office of the Assistant Commissioner (International)), Pittsburgh, and Richmond
Newark	Newark, Philadelphia, and Wilmington
	MIDWEST REGION
Chicago	Aberdeen, Chicago, Des Moines, Fargo, Helena, Milwaukee, Omaha, St. Louis, St. Paul and Springfield
	NORTH-ATLANTIC REGION
Brooklyn	Albany, Augusta, Boston, Brooklyn, Buffalo, Burlington, Hartford, Manhattan, Portsmouth, and Providence
	SOUTHEAST REGION
Atlanta	Atlanta, Birmingham, Columbia, Fort Lauderdale, Greensboro, Jackson, Jacksonville, Little Rock, New Orleans and Nashville
	SOUTHWEST REGION
Dallas	Albuquerque, Austin, Cheyenne, Dallas, Denver, Houston, Oklahoma City, Phoenix, Salt Lake City and Wichata
	WESTERN REGION
Los Angeles	Honolulu, Laguna Niguel, Los Angeles, Reno, Sacramento, San Jose, and San Francisco, Anchorage, Boise, Portland, and Seattle

5. To the extent that authority previously exercised consistent with this Order may require ratification, it is hereby affirmed and ratified.

Dated: January 12, 1987.

James I. Owens,

Deputy Commissioner.

[FR Doc. 87-1654 Filed 1-23-87; 8:45 am]

BILLING CODE 4830-01-M

UNITED STATES INFORMATION AGENCY

USIA Television Telecommunications Advisory Committee; Reestablishment

The charter of the USIA Television Telecommunications Advisory Committee expired on January 10, 1987.

USIA requested and was granted, by the Committee Management Secretariat of the General Services Administration, concurrence for reestablishment of the committee in accordance with 41 CFR Part 101-6.

The USIA Television Telecommunications Advisory Committee advises the Director of USIA on television telecommunications matters falling within the scope of USIA's statutory authority.

Reestablishment and operation of this committee constitutes a resource unavailable within the U.S. Government, at minimal cost, and is considered to be in the public interest.

Dated: January 16, 1987.

Louise G. Wheeler,

Director, Private Sector Committee.

[FR Doc. 87-1691 Filed 1-23-87; 8:45 am]

BILLING CODE 8230-01-M

UNITED STATES SENTENCING COMMISSION

Hearing

January 21, 1987.

AGENCY: United States Sentencing Commission.

ACTION: Notice of Hearing.

SUMMARY: This notice announces that a hearing on the issue of the Sentencing Commission's responsibility concerning sentencing guidelines for federal capital offenses is scheduled for Tuesday, February 17, 1987.

DATE: February 17, 1987.

Time: 10 a.m.

Location: Ceremonial Courtroom, U.S. Courthouse, 3rd Street and Constitution Avenue, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Paul K. Martin, Communications Director, 1331 Pennsylvania Avenue, NW., 1400, Washington, DC 20004, (202) 662–8800.

Note: All are invited to attend the hearing. Requests to be placed on the agenda must be received by Thursday, February 10, 1987.

The Commission encourages written comments on this topic. Please submit statements to the U.S. Sentencing Commission, 1331 Pennsylvania Avenue, NW., Suite 1400, Washington, DC 20004.

William W. Wilkins, Jr.,

Chairman.

[FR Doc. 87–1589 Filed 1–23–87; 8:45 am]

BILLING CODE 2210–01–M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 16
Monday, January 26, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

ACTION: Notice of meeting to be held pursuant to the Government in the Sunshine Act (5 U.S.C. 552b).

STATUS: Open.

TIME AND DATE: January 29–30, 1987, 9:00 a.m.

PLACE: Council Offices, 850 S.W. Broadway, Suite 1100, Portland, Oregon.

MATTERS TO BE CONSIDERED:

1. Action on Proposed Amendments to the Columbia River Basin Fish and Wildlife Program.
   - Salmon and steelhead framework (Draft section 200)
   - Spill
   - Wildlife mitigation plans for Hungry Horse and Libby dams
   - Resident fish substitutions: criteria and projects above Chief Joseph Dam
   - Amendment cycle
2. Council Business.
   - Comments on Bonneville's Intertie Development and Use Environmental Impact Statements
3. Public comment has closed on item 1.

FOR FURTHER INFORMATION CONTACT: Ms. Bess Atkins at (503) 222–5161.

Edward Sheets,

Executive Director.

[FR Doc. 87–1718 Filed 1–22–87; 10:30 am]

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Federal Register

Monday,
January 26, 1987

Part II

Department of Energy

10 CFR Ch. III

Low-Level Radioactive Waste Program; Inquiry Regarding Petitions for Allocation of Disposal Capacity for Low-Level Waste From Utility Unusual or Unexpected Operating and Maintenance Activities; Notice of Inquiry

DEPARTMENT OF ENERGY

10 CFR Ch. III

Low-Level Radioactive Waste Program: Inquiry Regarding Petitions for Allocation of Disposal Capacity for Low-Level Waste From Utility Unusual or Unexpected Operating and Maintenance Activities

AGENCY: Department of Energy.

ACTION: Notice of inquiry.

SUMMARY: The Department of Energy (DOE) is seeking information and advice to assist in making decisions pursuant to the limited discretionary authority under section 5(c)(5) of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (Pub. L. 99–240). This authority permits DOE to grant petitions from utilities for allocation of space (during a period from January 1, 1986–December 31, 1992) to dispose of low-level radioactive waste (LLW) in the three existing, commercially operated regional disposal sites located in South Carolina, Nevada, and Washington. This notice describes the statutory provisions and pertinent legislative history regarding the authority to grant such petitions, and requests public assistance in developing procedures and criteria for decisionmaking.

DATES: Comments must be received March 12, 1987.

ADDRESSES: Interested persons are invited to submit written comments in response to this notice to Jeffrey L. Smiley, Program Manager, Low-Level Waste Management Program, NE–24, U.S. Department of Energy, Washington, DC 20545.

FOR FURTHER INFORMATION CONTACT: Jeffrey L. Smiley, Program Manager, Low-Level Waste Management Program, NE–24, U.S. Department of Energy, Washington, DC 20545; (301/353–4216), or Sandra Sherman, Attorney, Office of General Counsel, GC–31, U.S. Department of Energy, Washington, DC 20585, (202/586–6972).

SUPPLEMENTARY INFORMATION:

Background

On January 15, 1986, the Low-Level Radioactive Waste Policy Amendments Act of 1985 (Pub. L. 99–240) (the Act) was signed into law. The Act provides for LLW generators to have continued access to the three commercially operated low-level waste disposal sites in Beatty, Nevada; Barnwell, South Carolina; and Hanford, Washington from January 1, 1986, through December 31, 1992 (referred to as the 7-year interim access period). During the 7-year interim access period, the Act provides for development of new LLW disposal facilities by non-site States and compact regions.[1]

Section 5 of the Act outlines the volume allocations available to generators during the 7-year interim access period. During the 7-year interim access period, the three sites may limit the volume of LLW accepted for disposal to a total of 19.6 million cubic feet of waste. The distribution at each site is 8.4 million cubic feet at Barnwell, South Carolina; 9.8 million cubic feet at Richland, Washington; and 1.4 million cubic feet at Beatty, Nevada.

Under the Act, utilities operating pressurized water reactors (PWR) and boiling water reactors (BWR) are guaranteed disposal capacity at the three sites, up to a limit of 11.9 million cubic feet for all reactors over the 7-year interim access period. The remaining 7.7 million cubic feet of disposal capacity is for the other generators of LLW. Within the 11.9 million cubic feet commercial utility allocation, each reactor unit is allocated under section 5(c) a specific quantity of disposal capacity over the 7-year interim access period.

The allocations are based on whether a reactor is a PWR or BWR and on whether it is located in a state or compact region with a commercially operated disposal site. Higher allocations are needed for BWR's because such plants generally produce more LLW under normal operations than PWR's. The basic allocation also takes into account volume reduction over the 7-year interim access period. Volume allocations are smaller during the final 3 years of the 7-year interim access period than they are during the first 4 years in order to account for the reduction in volume that is expected to be realized as the new technologies are adopted. These allocations will generally require an average volume reduction of approximately 30 percent for all reactor types over the entire 7-year interim access period.

Section 5(c)(1) provides that each nuclear power reactor licensed to operate at full power shall receive the following monthly allocation, divided into 4-year and 3-year increments over the 7-year interim access period:

Reactor type	4-year licensing period		3-year transition period	
	Reactors in sited region	Reactors in all other locations	Reactors in sited region	Reactors in all other locations
PWR	1,027 ft³	871 ft³	934 ft³	685 ft³
BWR	2,300 ft³	1,951 ft³	2,091 ft³	1,533 ft³

The 4-year transition period is that period beginning January 1, 1986, and ending December 31, 1989 in which volume-reduction technologies are to be adopted. The 3-year licensing period is that period beginning January 1, 1990, and ending December 31, 1992, in which the licensing process for new LLW disposal facilities will be initiated.

For purposes of calculating the aggregate amount of disposal capacity available to a commercial nuclear power reactor, the Act specifies that the number of months shall be computed beginning with the 16th month after receipt of the full power operating license.

The utility allocations were based on national average for normally operating reactors. These allocations did not reflect waste that may be generated from certain other "unusual" or "unexpected" activities. Therefore, Congress provided for additional potential allocations for waste produced from such "unusual" or "unexpected" activities. In this regard, section 5(c)(5), "Unusual Volumes," provides:

(A) The Secretary may, upon petition by the owner or operator of any commercial nuclear power reactor, allocate to such reactor disposal capacity in excess of the amount calculated under paragraph (1) if the Secretary finds and states in writing his reasons for so finding that making additional capacity available for such reactor through this paragraph is required to permit unusual or unexpected operating, maintenance, repair or safety activities.

(B) The Secretary may not make allocations pursuant to subparagraph (A) that would result in the acceptance for disposal of more than 800,000 cubic feet of low-level radioactive waste or would result in the total of the allocations made pursuant to this subsection exceeding 11,900,000 cubic feet over the entire seven-year interim access period.

The Act does not define what constitutes "unusual or unexpected operating, maintenance, repair or safety activities." House Committee reports indicate that reactors requiring steam

[1] The term "sited States and compact regions" means a State or compact region in which there is located one of the regional disposal facilities at Barnwell, South Carolina; Beatty, Nevada; or Richland, Washington. "Non-sited States and compact regions" means any State and region that is not a sited State or region.

generator or primary coolant recirculation system pipe replacement are activities that can produce "unusual volumes" of LLW (H.R. Report No. 99–314, Part 1 and 2). According to these reports, the Nuclear Regulatory Commission (NRC) had estimated that as many as 23 nuclear reactors may have to replace pipes having fissures over the 7-year interim access period. The number of reactors requiring steam generator maintenance outside normal operating procedures during the 7-year interim access period was not known. The volume of waste generated in the past by these "unusual" maintenance producures varied from 20,000 cubic feet to several hundred thousand cubic feet. Forty thousand cubic feet appeared to be the average. In addition to providing capacity for LLW resulting from the above activities, Congress specified at page 32 in H.R. Report 99–314, Part 1, that disposal capacity will also be available for "increased waste volume resulting from operation of a reactor without discharge of radioactively contaminated water." The Palo Verde plants (1, 2, and 3 operated by Arizona Public Service Company are the only reactors in this category. Since these reactors have either just begun commercial operations or are still under construction, no data are available on the amount of waste likely to be produced.

Issues:

DOE is inviting comments on these issues as well as on any others that interested persons may wish to raise.

A. "Unusual" and "Unexpected" Activities

Section 5(c)(5) was designed primarily to privide disposal capacity for waste generated from necessary, but "unusual or unexpected operating, maintenance, repair or safety activities," However, the Act does not differentiate between "unusual" and "unexpected" activities. Examples of "unusual" activities specified in the congressional reports include steam generator repair, repair and replacement of piping in reactor primary coolant systems, and additional waste generated where the reactor is operated with no off-site liquid discharge. Other types of activities which the DOE is considering as potential "unusual" activities are: major equipment or hardware repair, removal, modification, or replacement (in addition to steam generation and recirculation piping activities), major equipment modification under the NRC backfit rule (10 CFR 50.109) and re-racking of spent nuclear fuel pools. Generally, these activities are foreseeable and can be planned for by a utility during regular scheduled outages. DOE requests comments on the foregoing list of "unusual" activities, as well as suggestions for any other types of events which should be considered as generating "unusual" waste volumes.

There appears to be no legislative history pertaining to "unexpected operating, maintenance, repair or safety activities." The DOE considers "unexpected" activities to be different from "unusual" activities in that an "unexpected" event, by definition, is unplanned. The DOE invites comments regarding the type of occurrences which should qualify as "unexpected" activities.

The basic reactor allocation, defined in section 5(c)(1) of the Act, is not calculated for a specific reactor until the 16th month after its receipt of a full-power operating license. Reactor units are, however, expected to routinely generate low-level radioactive waste during this 16-month period. The DOE will not consider petitions for this routine waste under section 5(c)(5). However, waste generation "required to permit unusual or unexpected operating, maintenance, repair or safety activities" will be eligible for the "Unusual Volumes" allocation.

The DOE does not intend to consider waste subject to disposal under section 6 of the Act, Emergency Access, as eligible for "Unusual Volumes" allocation. As such, the DOE may require that petitioners certify that the waste does not pose a threat to public health and safety and that therefore they have not applied to the NRC for emergency access.

B. Availability of 800,000 Cubic Feet of Capacity

The Act provides certain fixed limits for disposal capacity. Namely, the utilities have been allocated 11,900,000 cubic feet of disposal capacity at the three disposal sites during the 7-year interim access period. The 800,000 cubic feet of "Unusual Volumes" disposal capacity are available for allocation within the overall 11,900,000 cubic feet of utility capacity.

The DOE may allocate up to 800,000 cubic feet under the "Unusual or unexpected Volumes" allocation only if such disposal capacity remains available. The DOE may not make allocations that would result in the acceptance for disposal of more than 800,000 cubic feet of LLW or that would result in the total of the allocations made pursuant to this subsection exceeding 11,900,000 cubic feet over the entire 7-year interim access period.

If startup dates for reactors currently under various stages of construction occur ahead of the projections used by the congressional committees in developing the legislation, those reactors could obtain their basic allocation at an earlier date and therefore reduce the volume available for the "Unusual Volumes" allocation. A list of estimated dates on which reactors will receive full power licenses is published quarterly by the NRC for the House Committee on Appropriations (T. Bevill, Chairman). The DOE requests comments on the utility schedules for receipt of full-power operating licenses, so that it can determine if its guidelines for "Unusual Volumes" allocation should be based on 800,000 cubic feet or some lesser amount.

C. Petition Process

The DOE is considering various options for handling petitions for "Unusual Volumes" allocations. These options are:

1. Petition as needed: The generator would petition for disposal capacity as the need develops.
2. Annual petition: The generator would petition once a year on a schedule established by the DOE.
3. One time petition based on present plans for the 7-year interim access period.
4. A schedule for allocating specific volumes of waste over the 7-year interim access period for both planned and unexpected activities.
5. A combination of the above options

Under Option 1, the petition-as-needed approach would be on a first-come, first-served basis. As long as the waste meets the criteria for "Unusual Volumes", the DOE would grant the allocation until the 800,000 cubic feet allocation is exhausted. Under Option 2, an annual petition would require that utilities planning to apply for an allocation under section 5(c)(5), submit a petition to the DOE on a schedule established by the DOE. This option would give the DOE flexibility in management of the allocation. However, it does not take into account waste generated from "unexpected" activities. Under Option 3, the one-time petition approach would allow the DOE to plan for the whole 7-year interim access period. However, utilities may not be able to plan with a reasonable degree of certainty events over the 7-year interim access period. Under Option 4, a 7-year allocation schedule for both planned and "unexpected" events would provide flexibility, but might not accommodate extraordinarily large volume allocations requested during a year. Under Option 5,

the DOE would exercise judgment in combining the other above options. The DOE is interested in comments on these and other feasible options for accepting petitions under section 5 (c)(5).

D. Petition Information

The DOE believes that certain information should be included in every petition. That information includes: (a) Name, address, and telephone number of point of contact; (b) name of reactor and utility applying for allocation; (c) description of waste (e.g., volume, waste form, activity); (d) need for allocation; (e) activity generating the waste; and (f) certification that the waste does not constitute a health or safety hazard and that the utility has not petitioned the NRC for Emergency Access for the waste. To allow for flexibility in managing the allocation process, the DOE is considering for inclusion the following discretionary information: (a) Other utility management options; (b) impacts of denial of all or portions of the request; (c) description of the utility's LLW management plan and volume reduction program; and (d) projected volume allocation requirements during the 7-year interim access period.

The time at which petitions would be submitted for consideration by DOE would depend on which options for allocation are ultimately available.

E. Decision Criteria

Before granting a petition, the DOE must be assured that there is a need for an allocation. The DOE is interested in receiving comments on the decisionmaking criteria that should be used in evaluating a petition. Preliminary criteria being considered by the DOE for evaluating applications are: the number of applications; the type of activity which generated the waste; the consequences of denial of the application, e.g., safety, regulatory, economic, other management options available to the petitioner (long-term storage, disposal under the basic utility allocations etc.); and waste volume reduction performed. The criteria for evaluating petitions could depend to some extent on the demand for allocation space. For example, if allocation requirements appear uniform over the 7-year interim access period, then the planned schedule option for a portion of the available volume to be allocated each year would appear appropriate.

F. Additional Actions

The DOE is authorized to make decisions on a case-by-case basis, but the DOE may elect to publish rules, including petition procedures and criteria, which will be applied in making decisions. The DOE requests comments as to whether a rulemaking should be conducted.

Issued in Washington, D.C. on December 28, 1986.

William R. Voigt, Jr.,

Director, Office of Remedial Action and Waste Technology, Office of Nuclear Energy

[FR Doc. 87-1665 Filed 1-23-87; 8:45 am]

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federal register

Monday
January 26, 1987

Part III

Department of Agriculture

Commodity Credit Corporation

1987 Crop Peanuts Price Support Program; Notice

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

1987 Crop Peanut Program Proposed Determination Regarding National Average Support Levels for Quota and Additional Peanuts and the Minimum Commodity Credit Corporation Export Edible Sales Price for Additional Loan Peanuts

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of Proposed Determination.

SUMMARY: This notice requests comments with respect to the following proposed determinations for the 1987 crop of peanuts: (1) The national average level of price support for quota peanuts, (2) the national average level of support for additional peanuts, and (3) the Commodity Credit Corporation (CCC) sales price for sales for export for edible use of 1987-crop additional peanuts and pledged as collateral for a price support loan.

These determinations are proposed pursuant to the Agricultural Act of 1949, as amended (hereinafter referred to as the "1949 Act"). It is proposed that the quota support level for the 1987 crop shall be $607.47 per ton. With respect to the additional support level and the minimum export edible sales price for additional peanuts pledged as loan collateral, this notice sets forth the range of prices under consideration.

DATE: Comments must be received on or before February 2, 1987, to be assured of consideration.

ADDRESSES: Send comments to Dr. Howard C. Williams, Director, Commodity Analysis Division, ASCS, P.O. Box 2415, Washington, DC 20013, (202) 447–3391. All written submissions will be made available for public inspection from 8:15 a.m. to 4:45 p.m., Monday through Friday, in Room 3741–South Building, 14th and Independence Avenue, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Gypsy Banks, Agricultural Economist, Agricultural Stabilization and Conservation Service, USDA, Room 3732–South Building, P.O. Box 2415, Washington, DC 20013, (202) 447–5953. The preliminary regulatory impact analysis describing the impact of implementing this determination is available upon request from the above-named individual.

SUPPLEMENTARY INFORMATION: This notice of determination has been reviewed under Department of Agriculture (USDA) procedures established to implement Executive Order 12291 and Departmental Regulation 1512–1 and has been classified "not major." It has been determined that these program provisions will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local governments, or geographical regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this notice applies are: Title—Commodity Loans and Purchases, Number—10.051, as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

Section 1017 of the Food Security Act of 1985 provides that the Secretary of Agriculture shall determine the rate of loans, payments, and purchases under the 1949 Act for the 1986–90 crops of commodities without regard to the requirements for notice and public participation in rulemaking prescribed in section 553 of title 5 of the United States Code or in any directive of the Secretary.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

The determination of the national average support level for the 1987-crop of quota and additional peanuts is required to be made by the Secretary of Agriculture no later than February 15, 1987. In order to permit consideration of comments received and announcement of final determinations by that date, the comment period on this notice will close on February 2, 1987. The determinations with respect to the minimum CCC export edible sales price for loan collateral additional peanuts is usually made at the same time to facilitate producer planning for the crop year.

These matters involve the considerations set forth below and comments are requested to aid in the determinations.

A. *National Average Support Level for Quota Peanuts.* Section 108B(1)(B)(ii) of the 1949 Act provides that the national average support level for the 1987 crop of quota peanuts shall be the national average quota support rate for such peanuts for the preceding crop, adjusted to reflect any increase in the national average crop of peanut production, excluding any change in the cost of land, during the calendar year immediately preceding the marketing year for the crop for which a level of support is being determined. This section provides further that in no event shall the national average quota support rate for any such crop exceed by more than 6 per centum the national average quota support rate for the preceding crop.

Accordingly, the 1987 quota support level is required to be the 1986 quota support of $607.47 per ton adjusted to reflect any such increase in the national average cost of peanut production in calendar year 1986. Cash expenses, capital replacement, net land rent and labor are the cost components used in this comparison. Because Section 108B excludes any change in the cost of land, 1985 net land rent was substituted for 1986 net land rent. Based on these production cost components as estimated by the Economic Research Service (ERS), USDA, it is presently estimated that the national average cost of producing 1986-crop peanuts on a planted acre basis decreased $25.81 per planted acre from the 1985 cost estimate.

Using a trend yield, planted acre costs have been converted to a cents per pound figure. A trend yield is used to reduce year-to-year per unit cost variability caused by abnormal weather and related factors. The national average cost of producing 1986-crop peanuts on a per pound basis is estimated to have decreased $0.0101 per pound or $20.20 per ton from the 1985 cost of production. Details of the cost of production estimates are shown in the following table:

U.S. PEANUT PRODUCTION COSTS, 1985–86

Item	1985	1986
Dollars Per Planted Acre		
Cash Receipts:		
Primary Crop	620.74	545.64
Secondary Crop	18.59	20.47
Total	639.33	566.11
Cash Expenses:		
Seed	59.61	64.86
Fertilizer	18.70	17.19
Lime and Gypsum	14.34	13.18
Chemicals	79.63	78.91
Custom Operations	7.52	7.60
Fuel, Lube, and Electricity	24.85	20.29
Repairs	19.54	18.99
Hired Labor	7.41	7.68
Drying	39.22	26.02
Miscellaneous	0.20	0.20
Technical Services	0.86	0.88
Total, Variable Expenses	271.88	255.80

U.S. PEANUT PRODUCTION COSTS, 1985-86—Continued

Item	1985	1986
General Farm Overhead	28.69	28.96
Taxes and Insurance	11.01	11.92
Interest	71.31	56.33
Total, Fixed Expenses	111.01	97.20
Total, Cash Expenses	382.89	353.00
Receipts Less Cash Expenses	256.44	213.12
Capital Replacement	48.73	51.57
Receipts Less Cash Expenses and Replacement	207.71	161.54
Economic (Full Ownership) Costs:		
Variable Expenses	271.88	255.80
General Farm Overhead	28.69	28.96
Taxes and Insurance	11.01	11.92
Capital Replacement	48.73	51.57
Allocated Returns to Owned Inputs:		
Return to Operating Capital	7.88	6.52
Return to Other Nonland Capital	18.13	19.19
Net Land Rent	84.97	83.98
Unpaid Labor	24.79	26.03
Total, Economic Costs	496.08	483.97
Residual Returns to Management and Risk	143.25	82.14
Total Returns to Owned Inputs	279.02	217.87
Cash Expenses, capital replacement, and labor ($ per planted acre)	456.41	430.60
Net Land Rent	84.97	[1] 84.97
Total	541.38	515.57
Trend Yield (Pounds Per Planted Acre)	2,557	2,558
Cost (Cents Per Pound)	21.17	20.16

[1] 1985 net land rent was substituted for the 1986 value because a legislative provision excludes any change in the value of land from consideration.

Based on current cost estimates, which could change prior to announcement of the final level, it is the proposed that the national average support level for the 1987 crop of quota peanuts remain unchanged from the 1986 level of $607.47 per ton.

B. *National average level of support for additional peanuts.* Section 108B(2)(A) of the 1949 Act provides that the Secretary shall make price support available to producers through loans, purchases, or other operations on 1987-crop additional peanuts at such level as the Secretary determines to be appropriate, taking into consideration certain factors. Those factors are the demand for peanut oil and meal, expected prices of other vegetable oils and meals, and the demand for peanuts in foreign markets. The Act further provides that the Secretary shall establish the support rate for additional peanuts at a level which the Secretary estimates will ensure that there are no losses to CCC on the sale or disposal of such peanuts. Section 358(v)(1) of the Agricultural Adjustment Act of 1938 defines additional peanuts for any marketing year as: (A) Any peanuts marketed from a farm for which a farm poundage quota has been established that are in excess of the quota marketings from such farm for such year and (B) all peanuts marketed from a farm for which no farm poundage quota has been established. The statutory factors for determining the additional support level are discussed below for the 1987 crop.

1. *Demand for peanut oil and meal.* The quantity of peanuts available for crushing for the 1987/88 marketing year (August 1, 1987 to July 31, 1988), a residual of edible use, is projected to range from 229,000 tons to 234,000 tons compared with 189,000 tons for the 1986/87 marketing year. Peanut oil and meal prices are expected to range from 23 to 31 cents per pound and $130 to $160 per ton, respectively, for the 1987/88 marketing year.

2. *Expected prices of other vegetable oils and meals.* For the 1986/87 marketing year, the world aggregate production of oilseeds is estimated to be 216.6 million short tons (196.5 million metric tons), up slightly from 1985/86. The recovery in soybean production is the biggest single factor in the increase. Soybeans account for 50 percent of the total world aggregate oilseed production while peanuts account for 11 percent. Because of soybean dominance of the total supply, soybeans lead the demand-supply price patterns for oilseeds. U.S. soybean production for 1986/87 decreased 4 percent to 2,009 million bushels. However, high carryover stocks will more than offset the lower production and increase total supplies by 5 percent. Modest gains in total use is not expected to offset the higher level of supplies and ending stocks could increase 14 percent to 615 million bushels.

Soybean oil and meal prices are expected to fall relative to recent years because of large supplies. For the 1986/87 marketing year, soybean oil prices are expected to range from 13.5 to 17.5 cents per pound in comparison to an average price of 18 cents per pound for the 1985/86 marketing year. Soybean meal prices are expected to range from $140 to $160 per ton for the 1986/87 marketing year in comparison to a price of $154.90 per ton for 1985/86.

The 1987 U.S. soybean acreage will likely remain about the same as for 1986/87. The projected 2-billion-bushel production is expected to hold supplies at about the same level as 1986/87. Increases in demand could lower ending stocks. Total use of peanut oil and meal is expected to be up 2 to 3 percent. Soybean oil prices are projected to increase about 10 percent above 1986/87 levels and soybean meal prices are projected to drop about 5 percent from 1986/87 levels.

3. *Demand for peanuts in foreign markets.* The demand for U.S. peanuts in foreign markets is expected to strengthen. The U.S. is expected to supply 448,000 short tons of peanuts to the export market in the 1987/88 marketing year compared with 450,000 tons for the 1986/87 marketing year.

Section 108B(2)(A) of the 1949 Act provides, further, that the support rate for additional peanuts must be established at a level estimated to ensure no loss to CCC from the sale or disposal of additional peanuts placed under loan. Subject to the pool offset provisions of sections 108B(3)(B) and 108B(4), net gains from peanut pools are redistributed to producers, while net losses are absorbed by CCC. Section 108B(3)(B) of the 1949 Act requires each area marketing association to establish accounting pools for each segregation for quota and additional peanuts. It is possible that all peanuts in some additional loan pools may be disposed of exclusively through sales for domestic crushing. For that reason, based on present data, it is proposed that the level of price support for the 1987 crop of additional peanuts be established within the range of $126.70 to $190.54 per ton. The higher figure of $190.54 per ton is derived from the highest projected crushing price for the 1987/1988 marketing year ($255 per ton) minus expected CCC handling and related costs. The lower figure of $126.70 per ton reflects the lowest projected crushing price for the 1987/1988 marketing year ($186 per ton) minus projected CCC handling and related costs. The support level for the 1986 crop of additional peanuts was $149.75.

C. *CCC Minimum price for additional peanuts sold for export for edible use.* The determination of a CCC minimum price for additional peanuts sold for export for edible use is discretionary. It is intended that this price will be announced at the same time as the determination of the support levels for quota and additional peanuts to give handlers and growers adequate information on which to base export contracts for additional peanuts. If the price is established too high, it may discourage export contracting between handlers and growers and unnecessarily encourage the production of additional peanuts for the loan program on the assumption that the minimum CCC sales price would be the price growers actually will receive for the sale of their loan collateral peanuts as the result of supplemental payments made as pool dividends pursuant to Section 108B of the 1949 Act. This assumption may be incorrect, however, since a misjudgment

of the price of edible peanuts in the export market could result in CCC losing edible sales and having to crush the loan inventory. If the minimum sales price is too low, returns from export sales will not be maximized and grower income will be reduced since export contacts between handlers and growers are generally based on the CCC minimum export sales price. It is proposed that the minimum price for additional peanuts of the 1987 crop sold for export for edible use be established within a range of $220 to $585 per ton. The lower figure of $220 per ton is equal to the lowest figure estimated for the additional support level (i.e., $158.70 per ton) plus the estimated costs incurred by CCC for the storage, handling, and inspection of export edible peanuts. If the lower figure of $220 per ton is selected, that figure would be subject to adjustment after the additional loan rate is determined and an official estimate is made of the 1987 CCC storage and handling charges. The higher figure of $585 per ton was derived by deducting about $20 per ton from the proposed $607.47-per-ton quota support level. The CCC minimum price for additional peanuts of the 1978 through 1981 crops sold for export for edible use was established at $20 per ton below the quota support level. However, for additional peanuts of the 1982, 1983, 1984, 1985 and 1986 crops, such price was established at $75 per ton, $150 per ton, $125 per ton, $134 per ton, and $207 per ton below the quota support level, respectively. The actual price for the 1986 crop was $400 per ton. Some growers have suggested in prior years that the CCC minimum price for sale of additional peanuts for export for edible use should be established at a price which approximates the quota support level.

Proposed Determinations

Comments are requested on the following issues with respect to 1987-crop peanuts:

(1) The national average price support level for quota peanuts.

(2) The national average price support level for additional peanuts.

(3) The CCC minimum price for sales of additional peanuts for export for edible use.

Signed at Washington, DC, on January 21, 1987.

Milton J. Hertz,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 87-1686 Filed 1-21-87; 4:13 pm]

BILLING CODE 3410-05-M

federal register

Monday
January 26, 1987

Part IV

Department of Agriculture

Agricultural Marketing Service

7 CFR Parts 916 and 917

Nectarines, Fresh Pears, Plums, and Peaches Grown in California; Order for Referenda

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 916 and 917

Nectarines, Fresh Pears, Plums, and Peaches Grown in California; Order Directing That Referenda Be Conducted; Determination of Representative Period for Voter Eligibility; and Designation of Referenda Agent To Conduct the Referenda

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Order for referenda.

SUMMARY: This document directs that referenda be conducted among growers of nectarines, and fresh pears, plums, and peaches grown in California to determine whether they favor continuance of the marketing order programs applicable to such fruits.

DATES: Referenda period January 26 through February 6, 1987.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250, telephone (202) 447–5697.

SUPPLEMENTARY INFORMATION: Pursuant to §§ 916.64(e) and 917.61(e) respectively, of the marketing agreements, as amended, and Order Nos. 916 and 917, as amended (7 CFR Parts 916 and 917), and the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), it is hereby directed that referenda be conducted within the period January 26 through February 6, 1987, among the growers who, during the period Janaury 1, 1986, through December 31, 1986 (which period is hereby determined to be a representative period for the purposes of such referenda), were engaged, in the State of California, in the production of any fruit covered by the said amended marketing agreements and orders for market in fresh form to ascertain whether continuance of the said amended marketing orders as to such fruit is favored by the growers. Said §§ 916.64(e) and 917.61(e), respectively, specify that such referenda shall be held within the period December 1, 1974, through February 15, 1975, and within the same period of every fourth fiscal period thereafter, to ascertain whether continuance is favored by the growers.

The Secretary of Agriculture has determined that continuance referenda are an effective means for ascertaining whether growers favor continuation of marketing order progress. The Secretary would consider termination of an order with respect to one or more of the regulated fruits if at least two-thirds of the growers, of such fruit, voting in the referendum and growers of at least two-thirds of the volume of such fruit represented in the referendum do not favor continuance. The outcome of the referendum on each fruit is not dependent on the results of the referenda relative to the other fruits. In evaluating the merits of termination, the Secretary will not only consider the results of the continuance referenda but also other relevant information concerning the operation of the order or orders and the relative benefits and disadvantages to producers, handlers, and consumers in order to determine whether continued operation of the order or orders would tend to effectuate the declared policy of the Act.

In any event, Section 8c(16)(B) of the Act requires the Secretary to terminate an order whenever the Secretary finds that a majority of all producers favor termination, and such majority produced for market more than 50 percent of the commodity covered by such order.

Kurt J. Kimmel, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, 5150 N. 6th Street, Fresno, California 93710, is hereby designated as referenda agent of the Secretary of Agriculture to conduct said referenda. The procedure applicable to the referenda shall be the "Procedure for the Conduct of Referenda in Connection with Marketing Orders for Fruits, Vegetables, and Nuts Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended" (7 CFR 900.400 *et seq.*).

Copies of the texts of the aforesaid amended marketing orders may be examined in the office of the referenda agent or of the Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250.

Ballots to be cast in the referenda may be obtained from the referenda agent and from his appointees.

Authority: Agricultural Marketing Agreement Act of 1937, as amended, Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

Dated: January 20, 1987.

Kenneth A. Gilles,

Assistant Secretary Marketing and Inspection Service.

[FR Doc. 87–1736 Filed 1–23–87; 11:07 am]

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CFR CHECKLIST

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